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THE LUNACY ACTS:

CONTAINING ALL THE

STATUTES RELATING TO PRIVATE LUNATICS:
PAUPER LUNATICS: CRIMINAL LUNATICS:
COMMISSIONS OF LUNACY:
PUBLIC AND PRIVATE ASYLUMS: AND
THE COMMISSIONERS IN LUNACY.

WITH

AN INTRODUCTORY COMMENTARY,

Notes to the Statutes,

INCLUDING REFERENCES TO DECIDED CASES,

AND A

COPIOUS INDEX.

BY DANBY P. FRY, ESQ.,

OF LINCOLN'S INN, BARRISTER-AT-LAW.

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PREFACE.

IN the Preface to the first edition of this work, published in 1864, its object and character were stated as follows:—

"A strong desire for the Consolidation of the Statute Law relating to Lunatics has often been expressed. Thus, in the inquiry before the Select Committee of the House of Commons in 1859 (Sess. Paper, No. 204), Mr. Bolden (Q. 2582, p. 215) stated, 'The first recommendation that I would make would be a consolidation of the laws;' and Dr. Sutherland (p. 195) made the following observations:—

"'2257.—I think it would be a very good thing to have an amalgamation of the Lunacy Acts.

"'2258.—A consolidation?—Yes.

"'2259.—To what extent? Do you mean to include the Lunatics under the care of the Court of Chancery, or do you mean only the two classes which have been referred to?—I mean for all lunatics.'

"When the multiplicity, variety, and complexity of the enactments, and the number of Statutes in which they are contained, are considered, this desire is by no means surprising; but whether the task will ever be accomplished, or even undertaken or attempted by the Legislature, may fairly be doubted.

"Meanwhile, it has been thought that the *desideratum* might be in some degree supplied by the collection of all the Acts into a single volume, which might serve as a Manual for those who are engaged in the actual administration of this important branch of the law, as well as for those who may be otherwise interested in the unhappy sufferers from the most terrible affliction to which humanity is subject.

"In the present work an endeavour has been made to approximate towards a consolidation of the law, by means of cross-references in the foot notes, showing the connection of the different enactments comprised in the several Statutes. The Introduction is designed to contain a fuller and more comprehensive exposition of the Statute Law upon the subject, under the various subdivisions of its numerous ramifications. Taken together with the Table of Contents, the list of Statutes printed, and the copious Index, it is hoped that the Introduction, combined with the Annotations, will enable any inquirer to trace out and ascertain all the statutory provisions affecting any particular matter.

"In the Notes to the Statutes will also be found references to the judicial decisions bearing upon them. It has not been deemed necessary (except in a few instances) to refer to the cases that arose under the Acts which have been repealed."

In their Twenty-second Report to the Lord Chancellor (31st March, 1868), the Commissioners in Lunacy supported the suggestion with respect to a consolidation of the Lunacy Acts, observing that "to arrive at a conclusion in favour of the consolidation, it seems only necessary to count the number of the Acts, and to glance at their obvious defects in regard to arrangement of matter and style of diction; next, to consider the wide extent of their operation; and, lastly, the class of persons in this country to whom the Law of Lunacy should be plain and intelligible.—The truth is," (they further remarked) "that, as in other legislative action in this country, so in the statutory dealings with lunacy, defects have from time to time become apparent, the aid of Parliament has been invoked, Act has followed Act in quick succession, amendment has been added to amendment, and thus has sprung up the evil of such a formidable series of legal provisions that the mere number of enactments creates confusion—a confusion, of course, much exaggerated by the pernicious practice adopted of referring in later Statutes to earlier for explanation. This confusion again is

intensified by want of arrangement in the several chapters of our Statute Book on this point; many of the Lunacy Acts are specially faulty; some are truly 'omnibus' Statutes of the worst kind; 25 & 26 Vict. c. 111, for instance, appears to be a drag-net of that sort. As to the literary faults of the Lunacy Statutes collectively, they are not, perhaps, greater than may be found in many of the contemporary productions of Parliamentary draftsmen; but it is submitted that verbosity and consequent lack of simplicity are vices of the most grave kind where relief is professed for an affliction to which all humanity is subject, and which demands early treatment. If pure consolidation in any department of English law be expedient, proper, and possible, we submit that it should be initiated where, as in the Lunacy Acts, the matter is, *ex necessitate rei*, of general public interest, where the persons bound to obey the law should be prepared to act without warning, and where the delay of an appeal to a lawyer, perhaps at some distance, for explanation of the proper course of action in the emergency, may peril the life or mental recovery of a human being. Many of the provisions of the Lunacy Acts, your Lordship will remember, are directly addressed to medical men, parish officers, constables, &c.—persons not conversant with legal phraseology, and some of them in a humble sphere of life. For that reason, if

for no other, their provisions should be concise, plain, and explicit."

The following remarks in the Preface to the former edition may be repeated here:—

"Whether or not the number of the insane is really increasing in this country is a question that has been much discussed; but there can be no doubt that the numbers brought under care and treatment, subject to authoritative supervision, have been continually and largely augmenting for some years past. It has been ths desire and study of the Editor to render the present volume practically useful to all who are in any way concerned or interested in these afflicted persons: whether as friends or relatives; or as members of the legal profession, or as justices of the peace, or as guardians of the poor, or parish or union officers; or as superintendents or proprietors of public or private asylums, or persons otherwise engaged in the management of those establishments, or in the care of the insane; or as members of the medical profession, who may be called upon at any moment to give certificates of insanity, as well as to undertake the care or to regulate the control of the insane, subject to legal in addition to moral responsibility."

In the present Edition, the enactments relating to the subject which have been passed since 1864, whether as separate Statutes or as parts of Statutes,

are included in their appropriate places, together with references to the judicial decisions which have occurred since 1864, bearing on the several Acts comprised in the volume; thus bringing the statement of the law down to the present time. In the Appendix to Chapter II. will be found the Instructional Circulars issued by the Poor Law Board, the Local Government Board, and the Commissioners in Lunacy, with reference to the subject of Pauper Lunatics.

D. P. F.

February, 1877.

CONTENTS.

	PAGE
General Introduction	1
CHAPTER I.—Private Lunatics	3
Introduction	3
Sec. 1.—Commissions of Lunacy	4
Sec. 2.—Lunatics not so found by Inquisition	26
Sec. 3.—Single Patients in Unlicenced Houses	28
Sec. 4.—Private Lunatics in Registered Hospitals and Licenced Houses	37
Sec. 5.—Private Lunatics in County or Borough Asylums	78
Sec. 6.—Lunatics Wandering at Large, or not under Proper Care	80
Sec. 7.—Lunatics from India	92
The Statutes	93
Statutes relating to Private Lunatics	94
a. Chancery Lunatics	94
1.—Commissions of Lunacy	94
2.—Lunatics not so found by Inquisition	94
b. Lunatics under Certificates.	181
3.—Single Patients in Unlicenced Houses	181
4.—Registered Hospitals and Licenced Houses	181
5.—County and Borough Asylums	181
6.—Lunatics Wandering at Large, or not under Proper Care	181
c. Lunatics from India	181
7.—Removal to United Kingdom	181

PAGE

CHAPTER II.—Pauper Lunatics 293
Introduction 293
Sec. 1.—Pauper Lunatics in County and Borough Asylums 295
Sec. 2.—Pauper Lunatics in Registered Hospitals and Licenced Houses . 319
Sec. 3.—Pauper Lunatics in Workhouses . 323
Sec. 4.—Pauper Lunatics receiving Out-door Relief 329
Sec. 5.—Incidence of the Charge . . 330
Statutes relating to Pauper Lunatics . . 334
1.—County and Borough Asylums . . 334
2.—Registered Hospitals and Licenced Houses 334
3.—Workhouses 334
4.—Lunatics receiving Out-Relief . . 334
5.—Incidence of the Charge . . . 335
6.—The Metropolis 335
Appendix 541
List of Documents Printed 541
CHAPTER III.—Criminal Lunatics and Insane Prisoners 567
Introduction 567
Statutes relating to Criminal Lunatics and Insane Prisoners 578
CHAPTER IV.—The Commissioners in Lunacy . 624
Introduction 624
Statutes relating to the Commissioners in Lunacy 626
List of Statutes Printed 632
List of Statutes Cited 633
List of Cases Cited 636
List of References to Reports of Commissioners in Lunacy 641
Index 642

INTRODUCTION.

THERE are three classes of Lunatics (using the term "lunatic" in its widest sense, as including all persons of unsound mind, without distinguishing the various forms or degrees of insanity) concerning whom provision has been made by the Legislature—namely, Private Lunatics, Pauper Lunatics, and Criminal Lunatics; or, in other words, those who are maintained out of their own property, those who are supported at the public charge, and those who are in the custody of the law. It is proposed to treat of these three classes under separate heads, as the legal provisions applicable to them are widely different.

The establishment and regulation of public and private asylums can be conveniently considered under the several chapters which relate respectively to the various classes of insane persons for whom they are designed. Hence, as county and borough asylums are intended mainly for the reception of pauper patients, they will be dealt with chiefly in connexion with that branch of the subject; whilst licenced houses and registered hospitals will naturally come within the division of the work which treats of private lunatics. At the same time, it will be found that, so far as public asylums may be available for private patients, and so far as hospitals and licenced houses may be available for pauper patients, each will be included, to that extent, within the limits of the appropriate chapter.

The powers and duties of the "Commissioners in Lunacy," as a Central Board of supervision, being very

comprehensive, and embracing within their scope all classes of lunatics, it has been deemed advisable to devote a separate chapter to them.

This Introduction will therefore comprise the following sub-divisions:—

CHAPTER I.—PRIVATE LUNATICS.
CHAPTER II.—PAUPER LUNATICS.
CHAPTER III.—CRIMINAL LUNATICS.
CHAPTER IV.—THE COMMISSIONERS IN LUNACY.

It may be added, that the Statutes relating to each sub-division are so arranged as to follow immediately the particular chapter with the subject of which they are connected.

CHAPTER I.

PRIVATE LUNATICS.

Division of the subject.]—Many alterations have of late years been made in the law with regard to proceedings in lunacy, and several statutes have from time to time been passed to regulate those proceedings. As the general result, it may be stated that, as the law at present stands, "Private Lunatics," or lunatics maintained out of their own property, may be either dealt with under commissions of lunacy, or otherwise under the authority of the Lord Chancellor; or kept as single patients in unlicenced houses, or confined in public or private asylums, under orders and medical certificates, and subject to the supervision of the Commissioners in Lunacy. The law does not require that every lunatic should be brought necessarily under its control; in fact, it takes no cognizance of private lunatics until application is made on their behalf, unless they are dangerous to others, or are not under proper care. (*a*) It leaves them to take care of themselves, or to be taken care of by their relatives or friends, until occasion arises for its intervention. At the same time, it is probable that, in consequence of the great attention which has been paid to this subject for some years past, a large majority of these afflicted persons are at present brought, in some way or other, under legal supervision.

(*a*) It may be added that the Court of Chancery will, in certain cases, and for special purposes, take cognizance of persons alleged to be of unsound mind, and act on their behalf or with reference to their interests, though not found by inquisition to be insane.

SECT. I.—COMMISSIONS OF LUNACY.

Idiots, Lunatics, and Prodigals.]—The law distinguishes between idiots and lunatics; and the distinction is thus defined by Blackstone (Comm., bk. i., ch. 8):—

Idiots.]—"An *idiot*, or natural fool, is one that hath had no understanding from his nativity; and therefore is by law presumed never likely to attain any." "A man is not an idiot if he hath any glimmering of reason (F. N. B. 233), so that he can tell his parents, his age, or the like common matters. But a man who is born deaf, dumb, and blind, is looked upon by the law as in the same state with an idiot" (Co. Litt. 42; Fleta, l. 6, c. 40), "he being supposed incapable of any understanding, as wanting all those senses which furnish the human mind with ideas." (*b*)

Lunatics.]—On the other hand, "a *lunatic*, or *non compos mentis*, is one who hath had understanding, but by disease, grief, or other accident, hath lost the use of his reason" ("*Idiota a casu et infirmitate.*"—Mem. Scacc. 20 Edw. I., in Maynard's Year Book of Edw. II. 20). "A lunatic is, indeed, properly, one that hath lucid intervals; sometimes enjoying his senses, and sometimes not, and that frequently depending upon

(*b*) While it may be wise and humane in the law to regard the persons so afflicted as being "in the same state with idiots," *i.e.*, requiring guardianship, it ought nevertheless to be borne in mind that they are not necessarily idiots. Such cases, however, must be very rare. In the cases of Laura Bridgman and Oliver Caswell, described by Dickens in his "American Notes for General Circulation" (vol. i., pp. 73–103), both the children displayed considerable intelligence; but it must be observed, that they were born in the full possession of those senses, which they afterwards lost through sickness. Laura Bridgman became blind, deaf, and dumb, at two years of age, and soon afterwards lost the sense of smell, and nearly that of taste, through fever. Oliver Caswell "was in full possession of all his faculties until three years and four months old. He was then attacked with scarlet fever; in four weeks became deaf; in a few weeks more, blind; in six months, dumb." These cases, therefore, would fall within the technical definition of lunatics, rather than idiots—"those that grow deaf, dumb, and blind, not being born so;" though, in truth, it does not appear that either of the children showed any unsoundness of mind.

the change of the moon." So says Blackstone; though this last proposition forms no part of the legal definition, but is merely a popular opinion, which explains the etymology of the word. "But," he adds, "under the general name of *non compos mentis*, which Sir Edward Coke" (1 Inst. 246) "says is the most legal name, are comprised not only lunatics, but persons under frenzies, or who lose their intellects by disease; those that grow deaf, dumb, and blind, not being born so; or such, in short, as are judged by the Court of Chancery incapable of conducting their own affairs."

Unthrifts, or Prodigals.]—Having noted the legal distinction between idiots and lunatics, and the modes of procedure with regard to them, Blackstone adds:—

"In this care of idiots and lunatics the civil law agrees with ours, by assigning them tutors to protect their persons, and curators to manage their estates. But, in another instance, the Roman law goes much beyond the English. For if a man by notorious prodigality was in danger of wasting his estate, he was looked upon as *non compos*, and committed to the care of curators or tutors by the prætor. (*c*) And by the laws of Solon such prodigals were branded with perpetual infamy. But with us, when a man, on an inquest of idiocy, hath been returned an unthrift and not an idiot, no farther proceedings have been had [Bro. Abr. tit. Idiot. 4]. And the propriety of the practice itself seems to be very questionable. It was, doubtless, an excellent method of benefiting the individual, and of preserving estates in families; but it hardly seems calculated for the genius of a free nation who claim and exercise the liberty of using their own property

(*c*) The following are the provisions of the Roman law upon the subject, as stated in the Institutes of Justinian, lib. 1, tit. 23:—

"3. Furiosi quoque et prodigi, licet majores viginti quinque annis sint, tamen in curatione sunt adgnatorum ex lege Duodecim-Tabularum. Sed solent Romæ præfectus urbi vel prætor, et in provinciis praesides, ex inquisitione eis curatores dare.

"4. Sed et mente captis, et surdis et mutis, et qui perpetuo morbo laborant, quia rebus suis superesse non possunt, curatores dandi sunt."

as they please. '*Sic utere tuo, ut alienum non laedas*' is the only restriction our laws have given with regard to economical prudence. And the frequent circulation and transfer of lands and other property, which cannot be effected without extravagance somewhere, are perhaps not a little conducive towards keeping our mixed constitution in its due health and vigour."

In the case of Mr. W. F. Windham, which excited at the time much public interest, this question was directly raised; and the Master, in summing up to the jury, thus stated the law:—

"What the jury had to decide was, whether Mr. Windham was of such sound mind as to be able to govern himself and his affairs. In the time of Lord Hardwicke it was necessary to find a man absolutely insane; but, in 1802, Lord Eldon declared that the Court of Chancery thought itself authorised to issue a commission, provided it were made out that the party was unable to act with any proper and provident management, was liable to be robbed by any one, or [and?] was labouring under that imbecility of mind which, though not strictly insanity, equally required the protection of the law. Lord Lyndhurst, in 1827, adopted the ruling of Lord Eldon, which might be taken, therefore, as an authoritative declaration of the law of England. Another doctrine laid down by Lord Eldon, and sanctioned by his successors, was, that if a jury found merely the incapacity of an alleged lunatic to manage his affairs, and did not infer from it unsoundness of mind, upon that finding a commission could not go on, though the party might be living where he was exposed to ruin every instant. From all this it resulted that, in order to justify a verdict against Mr. Windham, the jury must be satisfied that he was incapable of governing himself and his affairs by reason of unsoundness of mind. Mere weakness of character, mere liability to impulse or susceptibility of influence, good or bad, mere imprudence, extravagance, recklessness, eccentricity, or immorality—no, not all these put

together would suffice, unless they believed themselves justified, on a review of the whole evidence, in referring them to a morbid condition of intellect."—(*Times*, 30th January, 1862).

Royal Prerogative.]—The distinction between an idiot (*idiota a nativitate*), and a lunatic (*idiota a casu et infirmitate*), was important in the early state of the law. The custody of the born idiot, and his lands, was formerly vested in the lord of the fee (Fleta, l. 1, c. 11, s. 10); but, says Blackstone, "by reason of the manifold abuses of this power by subjects, it was at last provided by common consent that it should be given to the King, as the general conservator of his people, in order to prevent the idiot from wasting his estate, and reducing himself and his heirs to poverty and distress (F. N. B. 232). This fiscal prerogative of the King is declared in Parliament by statute 17 Edward II., which directs in affirmance of the common law (4 Rep. 126.—Mem. Scacc. 20 Edw. I., prefixed to Maynard's Year Book of Edw. II., fol. 20, 24), that the King shall have ward of the lands of natural fools, taking the profits, without waste or destruction, and shall find them necessaries; and after the death of such idiots he shall render the estate to the heirs, in order to prevent such idiots from alienating their lands, and their heirs from being disinherited."

This statute is still in force so far as regards the provisions concerning idiots and lunatics (see the Statutes, *post*), though most of its other enactments have been repealed. That it was in furtherance of the common law is pointed out by Coke (4 Rep. 123 b., Beverley's Case), who says:—"In the case of an idiot, or fool natural, for whom there is no expectation, but that he, during his life, will remain without discretion and use of reason, the law has given the custody of him, and all that he has, to the King, who (as F. N. B., 232, says) is bound of right by his laws to defend his subjects, and their goods and chattels, lands and tenements; and because every subject is in the King's protection, an

idiot, who cannot defend or govern himself, nor order his lands and tenements, goods and chattels, the King of right ought to have him, and to order him, his lands, goods, and chattels; and this, it appears, was the common law; for Briton, fol. 16, who wrote *anno* 5 E. I., saith, that if any heir is a fool natural, by which he is not able to demand and keep his inheritance, &c., that such heirs, of whomsoever they hold, male or female, remain in the custody of the King, with all their inheritance; and thence it follows that the stat. of Prærog. Regis, cap. 9, made in 17 E. II., long time after Briton wrote, was but a declaration of the common law."

That the practice in the reign of Edward the First was in accordance with this view is clear. In Madox's "History and Antiquities of the Exchequer," ch. 10 (vol. i. p. 348, second edition, 1769), it is stated that, in the thirty-third year of King Edward I., John Berthaud accounted for the Profits of the Lands of William Berthaud, an Idiot; which were seized into the King's hands for the said William's Idiocy. "Johannes Berthaud [debet] xij marcas de firma terrarum et tenementorum Willelmi Berthaud idiotæ; quæ terræ et tenementa extenduntur ad xij*l.* iiij*s.* ix*d.* per annum, et quæ sunt in manu Regis pro eo quod idem Willelmus est idiota, et non sufficit ad regimen sui nec suorum; Tenend. per talem firmam a festo Paschæ anno xxviij, quamdiu Regi placuerit; reddendo unam videlicet medietatem ad Scaccarium S. Michaelis, et aliam medietatem ad Scaccarium Paschæ; et de residuo extentæ prædictæ inveniet dicto Willelmo rationabilem sustentationem suam; sicut continetur in Memor. anni xxviij.—*Mag. Rot.* 33 *E.* 1. *Resid. Ebor. post Item Kanc.*"

It is worthy of notice, that Blackstone, whose Commentaries were published in 1765, treats of this subject in the chapter devoted to the King's revenue, introducing it with this remark:—"I proceed, therefore, to the eighteenth and last branch of the King's revenue, which consists in the custody of idiots, from whence we shall be naturally led to consider also the custody

of lunatics." It seems to us in the present day somewhat startling to find the subject dealt with in this manner, as if idiots and lunatics were only worthy of consideration as forming a part of the King's financial resources; but it must be remembered that it was for the protection of the insane person's property, and its preservation for himself or his heirs, and not for the benefit of the royal revenue, that the statute of Edward II. was passed. It had so far a benevolent intention, though it did not contemplate the more important object which has obtained so much prominence in our own times—the cure, or at least the kindly and considerate treatment of the insane person himself. The fact, however, that Blackstone deemed it most fitting to consider this topic in treating of the revenue, implies that the management of the estates of idiots, if not of lunatics, must have been at that time a source of profit to the Crown.

Procedure.]—With regard to the mode of procedure, Blackstone observes, "By the old common law there is a writ *de idiota inquirendo*, to inquire whether a man be an idiot or not (F. N. B. 232), which must be tried by a jury of twelve men; and if they find him *purus idiota*, the profits of his lands and the custody of his person may be granted by the sovereign to some subject who has interest enough to obtain them. This branch of the revenue hath long been considered as a hardship upon private families; and so long ago as in the eighth year of James I. it was under the consideration of Parliament to vest this custody in the relations of the party, and to settle an equivalent on the Crown in lieu of it; it being then proposed to share the same fate with the slavery of the feodal tenures, which has been since abolished (4 Inst. 203.—Com. Journ. 1610). Yet few instances can be given of the oppressive exertion of it, since it seldom happens that a jury finds a man an idiot *a nativitate*, but only *non compos mentis* from some particular time, which has an operation very different in point of law."

That difference is thus explained. To lunatics (Blackstone proceeds to observe), as well as idiots, "the King is guardian, but to a very different purpose. For the law always imagines that these accidental misfortunes may be removed, and therefore only constitutes the Crown a trustee for the unfortunate persons, to protect their property, and to account to them for all profits received, if they recover, or, after their decease, to their representatives. And, therefore, it is declared by the statute 17 Edw. II., that the King shall provide for the custody and sustentation of lunatics, and preserve their lands and the profits of them for their use when they come to their right mind; and the King shall take nothing to his own use; and if the parties die in such estate, the residue shall be distributed for their souls by the advice of the Ordinary; and, of course, by the subsequent amendments of the law of administration, shall now go to their executors or administrators."

The difference between the two processes lies in this —that the Crown is required, in the case of a lunatic, to account for all the profits, taking nothing to its own use (17 Edw. II. c. 12); whereas in the case of an idiot, or "natural fool," no such obligation exists (c. 11), for though the Crown is bound to preserve the estate for the benefit of the heirs, it is empowered to take the profits during the lifetime of the idiot, subject to the condition of supplying him with necessaries. This was effected by entrusting the care of the idiot and his estate to some one who, in fact, shared the profits with the Crown; and hence it was often a considerable advantage, and much sought after. In a note to one of the passages cited above, Blackstone remarks that "this power, though of late very rarely exerted, is still alluded to in common speech by that usual expression of *begging* a man for a fool." In "Love's Labour's Lost," act v. scene 2, Shakspeare makes the clown Costard say—"You cannot *beg* us, sir; I can assure you, sir, we know what we know"—meaning

"You cannot prove us to be fools." Douce, in his "Illustrations of Shakspeare," remarks upon this passage:—

"It was not the nearest relation only who *begged* the wardship of idiots in order to obtain possession of their property, but any person who could make interest with the Sovereign, to whom the legal guardianship belongs. Frequent allusions to this practice occur in the old comedies. In illustration of it, Mr. Ritson has given a curious story, which, as it is mutilated in the authority which he has used, is here subjoined from a more original source, a collection of tales, &c., compiled about the time of Charles I., preserved among the Harleian MSS. in the British Museum, No. 6395:—'The Lord North begged old Bladwell for a foole (though he could never prove him so), and having him in his custodie as a lunaticke, he carried him to a gentleman's house, one day, that was his neighbour. The Lord North and the gentleman retired awhile to private discourse, and left Bladwell in the dining-roome, which was hung with a faire hanging; Bladwell walking up and down, and viewing the imagerie, spyed a foole at last in the hanging, and without delay drawes his knife, flyes at the foole, cutts him cleane out, and layes him on the floore; my Lord and the gentleman comming in againe, and finding the tapestrie thus defaced, he asked Bladwell what he meant by such a rude, uncivill act; he answered, "Sir, be content, I have rather done you a courtesie than a wrong; for if ever my Lord North had seen the foole there, he would have *begged* him, and so you might have lost your whole suite.'" The same story, but without the parties' names, is related in Fuller's 'Holy State,' p. 182. Powel, in his 'Attourney's Academy,' 1630, 4to, says:—'I shall neede to give you this monitorie instruction touching an *ideot:* that you be assured that yourselfe is somewhat the wiser man before you goe about to *beg* him, or else never meddle with him at all, lest you chance to play at handy-dandy, which is the guardian or which is the foole? and the case alter, *e converso ad conversum.*' In 'A Treatise of Taxes,' 1667, 4to, p. 43, there is the following passage:—'Now, because the world abounds with this kind of fools (Lottery fools), it is not fit that every man that will may cheat every man that would be cheated; but it is rather ordained that the Sovereign should have the guar-

dianship of these fools, or that some favourite should beg the Sovereign's right of taking advantage of such men's folly, even as in the case of lunatics and ideots.' To this practice, too, Butler alludes, in 'Hudibras,' pt. 3, canto. 1, l. 590—

> 'Beg one another idiot
> To guardians, ere they are begot.'

Mr. Justice Blackstone, in treating of idiots, has spoken of it; and adds in a note, that the King's power of delegating the custody of them to some subject who has interest enough on the occasion, has of late been very rarely exerted."

These quotations serve to illustrate the practical operation of a mode of proceeding which was in force for several centuries, but which has now entirely passed away.

That the arrangement was open to great abuse, is obvious; but, as Blackstone explains, the mischief was practically avoided by dealing with idiots as lunatics, the insanity being referred by the jury to some particular time subsequent to the period of birth; and it is now provided that, with certain exceptions, the investigation shall be confined to the alleged lunatic's state of mind at the time of the inquiry; see *post*, p. 21. It also appears to have been the practice, in modern times, to grant the surplus profits of an idiot's estate to some of his family. (1 Ridg. P. C. 519; App. n. 1.)

It will be observed that the care exercised by the Sovereign, such as it was, was confined to the cases of idiots and lunatics possessed of estates; and that neither the common law nor the statute of Edward the Second took any notice of the idiot or lunatic poor, for whom, indeed, no provision whatever was made until the present century. In so far as they were destitute, they were provided for, like other destitute persons, by the Poor Law; but there was no special provision adapted to their particular affliction.

Commission of Lunacy.]—The method of proving any person *non compos* is thus described by Blackstone (bk. 1, ch. 8):—

"The Lord Chancellor, to whom, by special autho-

rity from the King, the custody of idiots and lunatics is entrusted, upon petition or information, grants a commission in the nature of the writ *de idiota inquirendo*, (*d*) to inquire into the party's state of mind, and if he be found *non compos*, he usually commits the care of his person, with a suitable allowance for his maintenance, to some friend, who is then called his committee. However, to prevent sinister practices, the next heir is seldom permitted to be this committee of the person, because it is his interest that the party should die. But it hath been said that there lies not the same objection against his next of kin, provided he be not his heir; for it is his interest to preserve the lunatic's life, in order to increase the personal estate by savings which he or his family may hereafter be entitled to enjoy. The heir is generally made the manager or committee of the estate, it being clearly his interest by good management to keep it in condition; accountable, however, to the Court of Chancery, and to the *non compos* himself, if he recovers, or otherwise to his administrators."

And in book 3, ch. 27, there is this further statement:—

Lord Chancellor.]—"As to idiots and lunatics, the King himself used formerly to commit the custody of them to proper committees, in every particular case; but now, to avoid solicitations and the very shadow of undue partiality, a warrant is issued by the King, under his royal sign manual, to the Chancellor or Keeper of his Seal, (*e*) to perform this office for him, and if he acts improperly in granting such custodies, the complaint must be made to the King himself in Council. But the previous proceedings on the commission, to inquire whether or no the party be an idiot or a lunatic, are on the law side of the Court of Chancery, and can

(*d*) Or in the nature of the writ *de lunatico inquirendo*, which is analogous to the writ *de idiota inquirendo*.

(*e*) Not necessarily: on one occasion the Lord High Treasurer was selected.

only be redressed, if erroneous, by writ of error in the regular course of law."

Present practice.]—Since Blackstone wrote, however, important changes in the law have taken place from time to time with regard to the mode of proceeding. The Act 16 & 17 Vict. c. 70, which was passed in 1853, "for the regulation of proceedings under commissions of lunacy, and the consolidation and amendment of the Acts respecting lunatics so found by inquisition, and their estates," and which repealed the previous statutes relating to the same matters (s. 1 and sched. 1), has itself been amended by the statute 25 & 26 Vict. c. 86, which was passed in 1862, and also to some extent by the Supreme Court of Judicature Acts of 1873 and 1875; and these Acts, taken together, comprise the chief provisions of the existing law upon the subject.

Objects of the Acts.]—The objects for which the first-mentioned statute (16 & 17 Vict. c. 70) was enacted are thus described in the preamble:—

"For removing or diminishing the delays and expenses now attending on the execution of commissions in the nature of writs *de lunatico inquirendo*, and the proceedings consequent on inquisitions taken thereon;

"And for regulating and amending the practice and course of procedure in matters of lunacy;

"And for consolidating and amending the several Acts of Parliament respecting the care and management of the persons and estates of lunatics so found by inquisition, and the appointments, duties, and salaries of officers in lunacy."

The second Act (25 & 26 Vict. c. 86) amends the provisions of the first, but in furtherance of the same general objects. For brevity's sake the two Acts will be referred to in the present chapter by the letters A and B; *i.e.*, A will represent the first Act (16 and 17 Vict. c. 70), and B the second Act (25 & 26 Vict. c. 86).

Extent of Acts.]—The Acts are confined for the most part to England and Wales; but some of the provisions of the first Act extend also to Ireland (s. 4). It will not be necessary here to notice any enactments except those which relate to England and Wales. The present treatise does not include the law of lunacy as applicable to Ireland, or to Scotland.

Definition of "Lunatic."]—The word "lunatic," as used in the Acts, is to be construed to mean "any person found, by inquisition, idiot, lunatic, or of unsound mind, or incapable of managing himself or his affairs." (A, s. 2, and B, s. 2).

Lord Chancellor and Lords Justices, or other Judges.]—It is provided (A, s. 2) that when and so long as the Lords Justices of the Court of Appeal in Chancery for the time being shall be entrusted by virtue of the Queen's sign-manual, concurrently with the Lord Chancellor, with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, then and so long all the powers, authorities, and duties to be had, exercised, and performed under this Act by the Lord Chancellor intrusted as aforesaid, shall and may be had, exercised, and performed as well by the Lord Chancellor acting either alone or jointly with both or either of the Lords Justices, as by both of the Lords Justices acting jointly apart from the Lord Chancellor, or under the 30 & 31 Vict. c. 87, s. 13 (passed in 1867), by either of them alone.

On the constitution of the Supreme Court of Judicature by the Act of 1873 (36 & 37 Vict. c. 66), that Court was formed into two permanent divisions, styled respectively "Her Majesty's High Court of Justice" and "Her Majesty's Court of Appeal;" and by the Amending Act of 1875 (38 & 39 Vict. c. 77), it was enacted that two of the first ordinary judges of the Court of Appeal should be "the present Lords Justices of Appeal in Chancery." It was further provided by the

Act of 1873, s. 17, that there should not be transferred to or vested in the High Court of Justice "any jurisdiction usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind;" and the Act of 1875, s. 7, enacts that any such jurisdiction usually vested in the Lords Justices of Appeal in Chancery, or either of them, shall be exercised by such judge or judges of the High Court of Justice or Court of Appeal as may be intrusted therewith by the sign-manual of the Sovereign, subject to a proviso reserving the jurisdiction to each of the existing Lords Justices of Appeal in Chancery, so long as he shall continue to be a judge of the Court of Appeal, and shall be intrusted as aforesaid.

Appeal.]—By the Supreme Court of Judicature Act of 1873, s. 18, all jurisdiction vested in or capable of being exercised by Her Majesty in Council, or the Judicial Committee of Her Majesty's Privy Council, upon appeal from "any order in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy," is transferred to the Court of Appeal established by that Act.

Officers in Lunacy.]—There are two Masters in Lunacy and one Registrar in Lunacy, with such number of officers, clerks, and messengers as may be sanctioned by the Lord Chancellor and the Lords of the Treasury (A, ss. 6, 10, 15); and also three Visitors of Lunatics (A, s. 16),*(f)* and such clerks as may from time to time be appointed by the Lord Chancellor (B, s. 25). The persons who held similar offices when the first Act was passed were continued in office; but in case of vacancies, it is provided that the Masters in Lunacy are to be appointed by the Lord Chancellor, to be

(*f*) The Act of 1853, ss. 22, 23, authorised the appointment of a Secretary to the Visitors; but this office has been abolished by the Supreme Court of Judicature Act of 1875, s. 31.

serjeants or barristers of ten years' standing, and to hold office during good behaviour (A, s. 6); and that the subordinate officers are to be appointed by the Masters and the Registrar respectively—the appointment of the Chief Clerk of the Masters, however, being subject to the approbation of the Lord Chancellor (A, s. 15). The vacancies among the Visitors are to be filled up by the Lord Chancellor, who is to appoint a physician in actual practice to succeed a Medical Visitor, and a barrister of not less than five years' standing to succeed a Legal Visitor (A, s. 16); and the Visitors so appointed (as well as the Registrar) will hold their office during good behaviour, subject to removal by the Lord Chancellor in case of misconduct, neglect, or disability (B, ss. 24, 28). The Visitors, when appointed, are to give up the practice of their respective professions (B, s. 24), and are not to be in any way interested in any licenced house (A, s. 18). Due provision is made for salaries, expenses, and retiring allowances (A, ss. 12, 13, 14, 15, 19, 23, 24; B, ss. 23, 24, 25, 26); which are to be paid out of the "Suitors' Fee Fund" (A, s. 25; B, s. 27), to which the balance of the "Account of the Board of Visitors for the better care and treatment of lunatics," kept under 3 & 4 Wm. IV. c. 36, was to be transferred, on the closing of that account (A, ss. 34, 37).

Masters in Lunacy.]—Before acting in his office, each Master is to take an oath to discharge it faithfully (A, s. 6 and sched. ii.); and in the execution of it he is to have all the powers, duties, and authorities which, at the time of the passing of the Act 5 & 6 Vict. c. 84, belonged to Commissioners named in commissions in the nature of writs *de lunatico inquirendo* (A, s. 7); and also to conduct all inquiries and other matters connected with the persons and estates of lunatics, which were formerly referred to the Masters in Chancery (except inquiries and matters coming within the Trustee Act, 1850, or any Act thereby repealed); and further, to discharge such other duties as

the Lord Chancellor may direct (A, s. 8). The powers of the Masters are joint and several, so that their duties (which are to be regulated by the Lord Chancellor) may be performed by them either separately or together (A, s. 9). They are also, as well as the Registrar, to discharge as far as may be requisite the duties which formerly belonged to the Clerk of the Custodies of Idiots and Lunatics (A, s. 11).

Visitors of Lunatics.]—The Masters in Lunacy are *ex-officio* Visitors of Lunatics; and there are also two Medical Visitors and one Legal Visitor (A, ss. 16, 17). The whole body, or any three, may from time to time form a Board for their mutual guidance and direction, with liberty to report to the Lord Chancellor (A, s. 20). In the event of the illness or unavoidable absence of any Medical or Legal Visitor, a temporary substitute may be appointed (A, s. 21).

Percentage and Fees.]—With regard to the charges incident to the administration of the estates of lunatics under the authority of the Lord Chancellor, the first Act declares it to be desirable that such charges should be defrayed in part by means of a percentage on the annual incomes of the lunatics, graduated in an equitable manner as between the richer and the poorer estates, and in part by means of fees on proceedings; it being considered that this arrangement would greatly facilitate the simplification and improvement of the practice in lunacy, and would be attended with convenience, and with a saving of expense to the estates of lunatics. The graduated scale which is prescribed by the Act as an equitable adjustment is based upon the principle of requiring the smaller incomes to contribute in a higher proportion than the larger ones. It is as follows (A, s. 26):—

On incomes of £100 and under £1,000, a percentage of 4 per cent., but in no case exceeding £30

On incomes of £1,000 and under £5,000, a percentage of 3 per cent., but in no case exceeding £100

On incomes of £5,000 and upwards, a percentage of 2 per cent., but in no case exceeding £200

Thus, for example, an income of £500 a year will contribute a percentage of £20; whilst an income of £20,000 a year (*i.e.*, forty times as large) will only contribute a percentage of £200, or not more than ten times as much as in the former case; the contribution from the smaller income being at the rate of 4 per cent.; from the larger, 1 per cent. The fees to be paid are fixed by s. 29; but power is given to the Lord Chancellor, with the advice and assistance of the Lords Justices, to alter them from time to time, and also to vary the percentages within the limits prescribed by the Act (A, s. 30); and further provision as to this point is made by the 32 & 33 Vict. c. 91, s. 13, passed in 1869. Both percentages and fees are to be collected by means of stamps (A, s. 31); the former being payable on the certificate of the Masters (A, s. 27), and recoverable under such regulations as the Lord Chancellor, with the advice and assistance of the Lords Justices, may direct (A, s. 28), though in certain cases the Lord Chancellor may reduce or remit the amount. (See s. 28, and also A, s. 32.)

It is provided, however, by the Supreme Court of Judicature Act of 1875, s. 26, that the Lord Chancellor, with the advice and consent of the Judges of the Supreme Court, or any three of them, and with the concurrence of the Treasury, may fix the fees and percentages to be taken in the Courts, "including the percentage on estates of lunatics," but, subject to any order made in pursuance of that provision, the existing fees and percentages shall continue to be taken, applied, and accounted for in the existing manner.

Commission of Lunacy.]—The first Act provides that any commission in the nature of a writ *de lunatico inquirendo* may be directed to less than three persons; and that every such commission shall, when issued, be directed to the Masters, or one of them, in such form as the Lord Chancellor may prescribe (A, s. 38); un-

less upon any occasion he may deem it proper to direct it to some fit person or persons in addition to the Masters, or one of them (A, s. 50). But the Act also provides that, in lieu of a special commission in each case, a general commission may be issued in duplicate under the great seal, directed to the Masters by name, jointly and severally, empowering them to proceed, in each case of alleged lunacy concerning which the Lord Chancellor shall order them to inquire, in the same manner as if a commission had issued specially in such case (A, s. 39); the Lord Chancellor's power to issue special commissions being nevertheless fully reserved (A, s. 50).

Procedure.]—The Acts do not contain a complete code of instructions with regard to the course of proceeding in the inquiry, but they provide for certain important points, which it will be advisable to notice.

Notice to alleged Lunatic.]—On the presentation of the petition for inquiry, if the alleged lunatic is not within the jurisdiction, no other notice need be given to him than he would have been entitled to receive if the Act had not been passed (A, s. 45); but if he is within the jurisdiction, it is expressly provided that he shall have notice of the petition (A, s. 40).

Jury.]—Where the alleged lunatic is not within the jurisdiction, the inquiry must be before a jury (A, s. 45); but where he is within the jurisdiction, it will depend upon the circumstances of the case whether the inquiry is, or is not, to be before a jury (A, ss. 40, 41, 42). On receiving notice of the petition, or upon the hearing of the petition, the alleged lunatic may demand a jury (A, s. 40; B, ss. 8, 9); and the demand so made must be complied with, unless the Lord Chancellor is satisfied, by personal examination, of his incompetency to form and express a wish upon the subject (A, s. 41). Moreover, where the Lord Chancellor does not order an inquiry before a jury, the Masters, upon consideration of the evidence before them, may certify to him that in their opinion an inquiry before a jury is expedient, and thereupon, with-

out further order, may issue their precept to the Sheriff, and proceed with the inquiry accordingly (A, s. 43). The Lord Chancellor may regulate the number of jurors, but so that the inquisition be found by the oaths of twelve at least (A, s. 46; and see *ante*, p. 9); and the Commissioner acting with the jury is to have all the power of a judge of a Court of Record (A, s. 48).

Trial in Common Law Court.]—By the second Act it is provided, that whenever under the first Act the Lord Chancellor shall order an inquiry before a jury, he may direct the issue as to the alleged insanity to be tried in one of the superior Courts of Common Law at Westminster, instead of before a Master; and the verdict in such case shall have the same effect as an inquisition under a commission of lunacy (B, s. 4). On the trial, the alleged lunatic, if within the jurisdiction, is to be examined before the taking of evidence is commenced, and at the close of the proceedings, before the jury consult as to their verdict, unless the presiding judge shall otherwise direct; and such examinations are to take place either in open court or in private, as may be directed by the judge (B, s. 6).

Inquisition without a Jury.]—Where the alleged lunatic does not demand a jury, or, where he does demand one, and the Lord Chancellor being satisfied by personal examination (A, s. 41) of his incompetency to form and express a wish in that behalf, considers an inquiry before a jury unnecessary or inexpedient, the Lord Chancellor may order accordingly; and the Masters shall thereupon personally examine the alleged lunatic and investigate the facts, in order to ascertain whether or not he is of unsound mind; and when they have certified their finding thereon, such certificate shall be deemed to be an inquisition, and shall be dealt with in the same manner, and shall have the same effect, as an inquisition taken upon the oath of a jury (A, ss. 42, 44).

Time.]—Whether with or without a jury, and whether before a Master or in a Common Law Court, the

investigation as to the alleged lunatic's state of mind is to be confined to the question of his lunacy at the time of the inquiry (A, s. 47; B, s. 3; see *ante*, p. 12; and *post*, p. 116); and no evidence is to be received as to anything done or said by him, or as to his demeanour or state of mind, at any time being more than two years before the time of the inquiry, unless the Judge or Master shall otherwise direct (B, s. 3).

Report of Commissioners in Lunacy.]—In certain cases, if the Commissioners in Lunacy are of opinion that the property of any person alleged to be a lunatic, or detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income is not duly applied for his benefit, they may make a report to the Lord Chancellor, which is to be taken as tantamount to an ordinary petition for inquiry; and, notice being given to the alleged lunatic, the case is thereupon to proceed and be conducted, as nearly as may be, like the case of an ordinary petition (A, s. 54; see also A, s. 53, as well as 8 & 9 Vict. c. 100, ss. 94–98; 15 & 16 Vict. c. 48, ss. 4–7; and *post*, pp. 27, 37).

Proceedings after Inquisition.]—The first Act contains sundry provisions of a technical but very important character, with respect to proceedings after inquisition (such as the mode of taking evidence—the appointment, security, and accounts of committees and receivers—the management of lunatics' estates—the inquiry as to the next of kin—the reports of the Masters—and various other points), which need not be specified here (A, ss. 55–97, both inclusive, and see also B, s. 18).

Orders in Lunacy.]—So also it will suffice to allude to the provisions with respect to orders in lunacy, their form and other points, which are comprised in A, ss. 98 to 103, and B, s. 29. It will be seen that the Lord Chancellor, with the advice and assistance of the Lords Justices (or other Judges intrusted, see *ante*, p. 15), is empowered to make general orders for embodying such provisions and directions as are usually

inserted in orders in lunacy, and for dispensing with their formal parts (A, s. 98).

Visitation of Lunatics.]—Great care is taken by the Acts to secure the due visitation of the persons found lunatic by inquisition. Some important provisions on this subject contained in the first Act were repealed by the second (B, s. 22); and it is now required that the Visitors shall visit the lunatics at such times and in such rotation and manner, and shall make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangement for their maintenance and comfort, and otherwise respecting them, as the Lord Chancellor, by general or special order, may direct (B, s. 19); but so that every lunatic shall be personally visited and seen by one of the Visitors four times at least in every year, the interval between successive visits to any lunatic being in no case allowed to exceed four months, except in regard to lunatics resident in asylums, registered hospitals, or licenced houses, who need not be visited more than once in the year, unless the Lord Chancellor shall otherwise direct (B, s. 20). The Visitors are to make a report in writing to the Lord Chancellor after each visit, and the reports so made are to be submitted to him annually, or oftener (A, s. 106); and they may also make separate or special reports in any case, and are particularly required to report to him, without delay, any instance in which, on proceeding to visit, they have been unable to discover the residence of the lunatic, or have been otherwise prevented from actually seeing him (A, s. 106). Their reports are to be filed, and kept secret from every one except the members of the Board of Visitors, with their Secretary, and the Lord Chancellor, and such persons as he may specially appoint (A, s. 107); and the reports relating to any particular patient are to be destroyed on his death, or on the inquisition being superseded, or discharged on a traverse, unless in such case the Lord Chancellor

specially order that they be not destroyed until the death (A, s. 107). The Visitors are further to make a general report every six months (B, s. 21).

Estates of Lunatics.]—Many important provisions are contained in the first Act, "with respect to the management and administration of the estates of lunatics," for which reference must be made to the Act itself (A, ss. 108 to 147; see also B, ss. 16, 17, and 18 & 19 Vict. c. 13); but it will be observed that in some cases the Lord Chancellor is empowered not merely "to manage and administer" the estate, but to sell or otherwise dispose of it for the benefit of the lunatic. In this respect the principle of modern legislation goes beyond the purpose originally contemplated by the statute of Edward II., which was confined to the protection and preservation of the estate on behalf of the lunatic and his heirs; though it may doubtless be considered that this extension of the principle, having the advantage of the lunatic still in view, is in harmony with the intentions of the earlier statute (see *ante*, p. 9). It will be seen that the powers given to the Lord Chancellor, with regard to the estates of lunatics, extend to all "land" and "stock" (for the meaning of these words, see A, s. 2) within any of the dominions, plantations, and colonies of Her Majesty, except Scotland and Ireland (A, s. 147).

Traverse of Inquisition.]—Any person desiring to traverse (*g*) the inquisition must petition within three months from the date of the return, and must proceed to trial within the time (not exceeding six months) which may be fixed by the Lord Chancellor (A, s. 148); unless the time be extended by the Lord Chancellor in any special case (A, s. 149). No person may traverse oftener than once; but the Lord Chancellor, if dissatisfied with the verdicts in any case, may order a new trial or trials (A, s. 150). No person, however,

(*g*) 2 & 3 Edw. vi. c. 8, s. 6; see the Statutes, *post*.

shall be entitled to a traverse of any inquisition made upon the trial of an issue in a Common Law Court under the provisions of s. 6 of the 25 & 26 Vict. c. 86 (*ante*, p. 21); but in any such case the Lord Chancellor, upon petition, presented within three months after the trial, may order a new trial, or a new inquiry, subject to such directions and upon such conditions as he may deem proper (B, s. 7). Notwithstanding the traverse in any case, the Lord Chancellor, and the Masters, may make such orders as he, or they, may think necessary or proper for the custody of the person who is the object of the inquisition, or for the management of his estate (A, s. 151).

Supersedeas.]—Where any person has been found of unsound mind by inquisition, but the question of unsoundness of mind is disputed, and liberty to traverse has been applied for, the Lord Chancellor (whether such liberty has been granted or not), if he deems it expedient and for the lunatic's benefit, may, with the consent of the lunatic and other persons concerned, order the inquisition to be superseded, on such terms and conditions, and subject to such arrangement respecting the lunatic's estate, as he may think proper (A, s. 152). A similar power is extended by the second Act to cases where a traverse has not been applied for (B, s. 10).

Costs.]—In the case of Mr. W. F. Windham already referred to (*ante*, p. 6), in which the jury, after a protracted inquiry, found that the alleged lunacy had not been proved, an application on behalf of the alleged lunatic was made to the Lords Justices to order the payment of the costs of the inquiry by the parties who had presented the petition; which, under the circumstances of that case, the Lords Justices refused (*in re* Windham, 31 L. J. R., N. S., ch. 720). At the same time they expressed a doubt as to their power, under any circumstances, to make such an order. It is now provided, however, by the 25 and 26 Vict. c. 86, that the Lord Chancellor may in all cases order the costs of

any inquiry, inquisition, issue, traverse, or other proceeding, to be paid either by the party or parties presenting the petition, or by the party or parties opposing the petition, or out of the estate of the alleged lunatic, or partly in one way and partly in another; such order to have the same force as orders made by the Court of Chancery for the payment of money (B, s. 11; and see also A, s. 116). (*h*)

General Orders.]—The Lord Chancellor, with the advice and assistance of the Lords Justices (or other Judges intrusted, see *ante*, p. 15), is empowered from time to time to make general orders for the following purposes:—

1. For carrying into effect the purposes of the Acts;
2. For regulating the form and mode of proceeding before and by the Masters, and the practice in matters in lunacy;
3. For regulating the duties of the several officers in lunacy;
4. And, so far as to him may seem expedient, for altering the course of proceeding prescribed by the Acts in respect of matters to which the Acts relate, or any of them.

Any order, however, coming under the last division must be laid before both Houses of Parliament, and may be annulled by either House by resolution (A, s. 153; and B, s. 2).

SECT. 2.—LUNATICS NOT SO FOUND BY INQUISITION.

Having sketched the course of proceeding with regard to persons found lunatic by inquisition, we may now advert to those cases in which the Lord Chancellor is empowered to interfere with regard to the property of persons who are in fact insane, but are not so found by inquisition. It has been already mentioned that

(*h*) It may be remarked that many of the provisions of the amending Act (25 & 26 Vict. c. 86) were suggested by the circumstances connected with the inquiry which took place in the case referred to. See Sir George Grey's speech, introducing the Bill into the House of Commons, 20th May, 1862 (*Hansard*, vol. 166, p. 1974).

certain cases of persons not found lunatic by inquisition, whose property is not duly protected or applied, may be brought under the notice of the Lord Chancellor by a report from the Commissioners in Lunacy, in lieu of an ordinary petition for inquiry; but those cases, when so reported, are then to be dealt with in the ordinary manner, under a commission of lunacy, or order for inquiry (*ante*, p. 22). In reference to such cases, it was recited in the Act 16 & 17 Vict. c. 70, as the reason for so dealing with them, that the expenses of proceedings under commission would be much diminished under that Act, and that proceedings under commission would confer larger and more effectual powers for the protection, care, and management both of person and estate, than those provisions of the 8 & 9 Vict. c. 100, which were previously applicable to such cases. There is, however, another class of cases, where the interference of the Lord Chancellor is desirable as regards the management of the estate, though it may not be required as regards the custody of the person, and where, nevertheless, the estate is too small to render a commission of lunacy expedient, notwithstanding the diminution of expense. In any case of this kind, if it be established to the satisfaction of the Lord Chancellor by the report of one of the Masters in Lunacy, or by the report of the Commissioners in Lunacy, or by affidavit or otherwise, that the person in question is of unsound mind and incapable of managing his affairs, and that his property does not exceed £1,000 in value, or £50 in yearly income, the Lord Chancellor may, without directing any inquiry under a commission of lunacy, but after giving due notice to the alleged lunatic, make an order for rendering the property, or the income, available for his maintenance or benefit, or for carrying on his trade or business (25 & 26 Vict. c. 86, s. 12). And in furtherance of this object, the Lord Chancellor is empowered to sell, mortgage, or otherwise dispose of any land, stock, or other property, and to direct the proceeds, or the dividends, or in-

come, to be paid to any relative or other person for the maintenance or benefit of the insane person and his family (s. 13). He is also empowered to make General Orders for regulating the procedure to be adopted and the duties to be performed by the Masters and Officers in Lunacy in such cases (s. 14).

Criminal Lunatics.]—Similar powers are given to the Lord Chancellor (s. 15) with respect to any person who, on the trial of any indictment, may be acquitted on the ground of insanity (see *post*, Chapter III).

Sect. 3.—Single Patients in Unlicenced Houses.

Lunatics taken care of by Relatives.]—It has been already explained (*ante*, p. 3) that a lunatic does not come necessarily under the control of the law, but may be taken care of by his relatives or friends. The prerogative of the Crown does not prevent a relation or friend from confining a lunatic (2 Roll. Abr. 546), if it be deemed more expedient to adopt that course than to apply to the Lord Chancellor for a commission of lunacy. But if that course be adopted, those provisions which the law has made for the protection of the lunatic must be duly observed, whether he be kept as a single patient in an unlicenced house, or be confined with others in a private or public asylum.

Living with Relatives.]—An insane person may be taken care of privately in a house in which there is no other person similarly afflicted. If this be done by some relative, friend, or other person who derives no profit from the charge, it does not appear that any general supervision is provided by the law; but in any particular case of a lunatic under the care of any person receiving or taking charge of such one lunatic only, and deriving no profit from the charge, as also in the case of any person detained or taken charge of as a lunatic, or represented to be a lunatic, it is lawful for the Lord Chancellor or the Home Secretary, at any time, by an order in writing under his hand, directed

to the Commissioners in Lunacy, or any of them, or to any other person, to require the person or persons to whom the order is directed, or any of them, to visit and examine the lunatic or supposed lunatic, and report upon the subject (8 & 9 Vict. c. 100, s. 112; and 16 & 17 Vict. c. 96, s. 33). The Lord Chancellor or the Home Secretary may likewise direct an inquiry and report as to any house or place wherein any lunatic, or person represented to be lunatic, is confined or alleged to be confined (8 & 9 Vict. c. 100, s. 113). Any person wilfully obstructing any persons appointed to make such inquiries will be liable to forfeit £20, in addition to any other punishment to which he may be otherwise liable (16 & 17 Vict. c. 96, s. 34). And if any person detaining or having or taking part in the care or custody of any lunatic or alleged lunatic, in any way abuse, ill-treat, or wilfully neglect such lunatic or alleged lunatic, he may be indicted for misdemeanour, or may be fined £20 on summary conviction (16 & 17 Vict. c. 96, s. 9; see also, *post*, p. 83).

Taken care of by Committee.]—If the lunacy have been found by inquisition, and the lunatic be under the care of a committee appointed by the Lord Chancellor, such committee will be subject to the Lord Chancellor's control. (See also 8 & 9 Vict. c. 100, ss. 112, 113, and the next paragraph.)

Boarded in Unlicenced Houses.]—If, however, the lunatic be received to board and lodge in the house of a person who is compensated by a pecuniary remuneration, express provision is made by 8 & 9 Vict. c. 100; 16 & 17 Vict. c. 96; and 25 & 26 Vict. c. 111. The houses in which these single patients are so received for profit (8 & 9 Vict. c. 100, s. 90), are not required to be licenced (s. 44); but they are, nevertheless, placed under the superintendence of the Commissioners in Lunacy.

The 90th sect. of 8 & 9 Vict. c. 100 refers to every person taking charge of a single lunatic, "except a person deriving no profit from the charge, or a com-

mittee appointed by the Lord Chancellor." A question has arisen on this section, as to how far it applies to a case where a lunatic, so found by inquisition, is placed by his committee in the care of another person who undertakes the charge for profit. In the Thirteenth Report of the Commissioners in Lunacy (31st March, 1859), they stated (p. 84) that they had consulted the late Solicitor-General and Mr. Montague Smith upon the following question:—"Is an insane person, found lunatic by inquisition, to be considered a 'single patient' within the meaning of the Acts 8 & 9 Vict. c. 100, and 16 & 17 Vict. c. 96, and required to be placed under certificates, and subject to the visitation of the Commissioners, who is placed by his committee, not in a residence rented or taken by him for the patient, but under the charge of a medical practitioner, or other person, in a house or premises, of which a person, not being the committee, is the occupying owner or tenant?" The answer was as follows:—"We think that a medical practitioner or other person, who (not being the committee appointed by the Lord Chancellor) receives an insane person found lunatic by inquisition under his charge (deriving a profit from such charge), to be boarded or lodged in a house of which he is the occupying owner or tenant, is subject to the provisions of the above-mentioned Acts with reference to single patients. And we think such person so received to be boarded and lodged, is subject to the visitation of the Commissioners." The Commissioners added (p. 85), "it would be very desirable if the words 'profit from the charge' in the 90th sect. of Act 8 & 9 Vict. c. 100, were defined" (see also the remarks on this last point, in their Fifteenth Report, 31st March, 1861, p. 69). It is now, however, provided by the 25 and 26 Vict. c. 111, s. 22, that in the case of a person found lunatic by inquisition, an order signed by the committee appointed by the Lord Chancellor, having an office copy of the appointment annexed, shall be a sufficient authority for his reception into an unlicenced

house, without any such order or medical certificates as are required by the 8 & 9 Vict. c. 100, s. 90; and it is further provided that in such a case the provisions of the last-named enactment as to the fortnightly visitation of single patients by a medical man, shall not apply (see *post*, p. 32).

Statutory Enactments.]—The Annual Reports of the Commissioners in Lunacy show that this class of lunatics has received year by year increasing attention; and (as one of the results) the provisions of the first Act, 8 & 9 Vict. c. 100, relating to that class, have been considerably amended and enlarged by subsequent legislation. The main provisions upon the subject appear to be contained in the following enactments:—8 & 9 Vict. c. 100, ss. 84, 85; 90, 91, 92, 93; 99; 106; 108; 112, 113, 114;—16 & 17 Vict. c. 96, ss. 8 to 22; 27; 29; 33, 34, 36;—25 & 26 Vict. c. 111, ss. 22, 23, 24; 27, 28; 35; 40, 41, 42; 44; 47.

Explanatory Circular by Commissioners.]—In their Seventeenth Report, 31st March 1863, addressed to the Lord Chancellor, the Commissioners in Lunacy remarked as follows:—

"The number of insane persons under certificates as 'single patients' in unlicenced houses, on the 1st January 1863, was 150—namely, 69 of the male and 81 of the female sex. Of these, 48 (24 of each sex) have been found lunatic by inquisition. As respects the class last referred to, since the passing of the Lunacy Regulation Act, 1862 (25 & 26 Vict. c. 86), which provides that they shall be seen four times at least in every year by the Visitors in Lunacy, (*i*) we have come to the resolution that any visitation by ourselves should, unless special circumstances required it in any particular case, for the future be discontinued. We had the satisfaction of receiving your Lordship's express approval of this course. It is material to observe that the visitation of single patients by members

(*i*) See *ante*, p. 23.

of our Board is permissive and discretionary, and not required by the 92nd section of the Lunacy Act, c. 100, to be made at any stated periods. * * * For the instruction and guidance of medical practitioners and other persons responsible for the care of single patients, we have circulated a paper (Appendix I.) setting forth the provisions of the law applicable to them, in which we have, as authorized by the 42nd section of the Lunacy Acts Amendment Act, 1862, prescribed 'The Form of and the Particulars to be entered in the Medical Visitation Book.'"

APPENDIX (I).

To all Persons having charge of Single Insane Patients.

The law relating to Single Insane Patients, and defining the duties and responsibilities of those who undertake to receive such patients to reside with them, being in general very imperfectly understood, and frequently violated, your attention is urgently requested to the subjoined statement of the various provisions of the statutes, which the Commissioners intend, in future, most strictly to enforce:

Provisions of the Law as to Single Patients.

No person deriving profit from the charge can receive into any house, or take care or charge of, a patient as a lunatic, or alleged lunatic, without an order and two medical certificates. (*l*) [8 & 9 Vict. c. 100, s. 90; and 16 & 17 Vict. c. 96, ss. 4, 8.]

Within one clear day after receiving a patient, true copies of the order and certificates, together with a statement of the date of reception, and of the situation and designation of the house into which the patient has been received, as well as of the christian and surname of the owner or occupier thereof, must be forwarded to the Office of the Commissioners in Lunacy, No. 19, Whitehall-place, London, S.W. [8 & 9 Vict. c. 100, s. 90; 25 & 26 Vict. c. 111, s. 28.]

In addition to these documents, there must now be for-

(*l*) Except in the case of a person found lunatic by inquisition; in which case an order signed by his committee is sufficient, without any medical certificates; and the fortnightly visitation is dispensed with (25 & 26 Vict. c. 111, s. 22; and see *ante*, p. 31).—D. P. F.

warded to the Office of the Commissioners a statement of the condition of the patient, signed by his medical attendant, after two clear days and before the expiration of seven clear days from the day of reception, according to the form in schedule (F) to chapter 100. [25 & 26 Vict. c. 111, s. 41.]

The order and certificates must not be signed by any person receiving any percentage on or otherwise interested in the payments for the patient, nor by the medical attendant, as defined by the Lunacy Act, chapter 100; nor must the certificates be signed by the father, brother, son, partner, or assistant of the person having the care or charge of the patient. [25 & 26 Vict. c. 111, s. 24; 16 & 17 Vict. c. 96, s. 12.]

The patient must be visited, at least once in two weeks, (*m*) by a physician, surgeon, or apothecary, who did not sign either of the certificates of insanity, and who derives no profit, and who is not a partner, father, son, or brother of any person deriving profit from the care or charge of the patient. [8 & 9 Vict. c. 100, s. 90.]

Such medical man must at each visit enter in a book to be kept at the house, according to the subjoined form, and to be called the "Medical Visitation Book," a statement of the condition of the patient's health, both mental and bodily, and also of the condition of the house. [8 & 9 Vict. c. 100, s. 90.]

These visits may, by special permission of the Commissioners in Lunacy, be made less frequently than once in every two weeks; but in such case, when the patient is under the care or charge of a medical man, such medical man must himself make an entry once at the least in every two weeks in a book to be called the "Medical Journal." [16 & 17 Vict. c. 96, s. 14.]

Every physician, surgeon, or apothecary, who visits a single patient, or under whose care a single patient may be, must, on the 10th of January, or within seven days thereof, in every year, report in writing to the Commissioners the state of health, mental and bodily, of the patient, and such other circumstances as he may deem necessary to be communicated. [16 & 17 Vict. c. 96, s. 16.]

(*m*) See note (*l*), *ante*, p. 32; also, *ante*, p. 31.

"The Medical Visitation Book" and "Medical Journal," and the order and certificates, must be so kept that they may be accessible to the Commissioners whenever they may visit the patient. [8 & 9 Vict. c. 100, s. 90; and 16 & 17 Vict. c. 96, s. 14.]

Notice must be forwarded to the Office of the Commissioners in case of the death, discharge, removal, escape and recapture of a patient; and in the case of removal, the exact address and designation of the house must be specified. [8 & 9 Vict. c. 100, ss. 53, 54, 55, & 90; 16 & 17 Vict. c. 96, ss. 21, 22.]

Notice of the death of the patient must also be forwarded to the Coroner of the district. [25 & 26 Vict. c. 111, s. 44.]

If the patient is proposed to be removed to the care or charge of another person, consent to an order of transfer must previously be obtained from the Commissioners, otherwise a fresh order and certificates will be necessary. (16 & 17 Vict. c. 96, s. 20.]

When any person, having the care of a single patient, proposes to change his residence, and remove the patient to such new residence, seven clear days' notice of the proposed change must be sent to the Commissioners, and also to the person who signed the order for reception of the patient. [16 & 17 Vict. c. 96, s. 22.]

If it should be desired to give the patient liberty of absence anywhere, for a definite time, for improvement of his health, or for a trial of his powers of self-control, the consent of the Commissioners must first be obtained. [16 & 17 Vict. c. 66, s. 22.]

The attention of every person having charge of a single patient is especially drawn to the concluding paragraphs of the 90th section of the 8 & 9 Vict. cap. 100, by which he will see, that if he shall receive a patient without a proper order and certificates, or if, having such certificates, he neglect to transmit copies to the Commissioners in Lunacy, or if he fail to cause such patient to be visited fortnightly by a medical man (not disqualified as above), or if he make any untrue entry in the "Medical Visitation Book," he shall be guilty of a misdemeanor. [8 & 9 Vict. c. 100, s. 90.]

FORM OF MEDICAL VISITATION BOOK OR MEDICAL JOURNAL. (*n*)

Date.	Mental State and Progress.	Bodily Health and Condition.	Restraint or Seclusion, since last Entry. When and how long? By what Means, and for what Reason?	Visits of Friends.	State of House, Bed and Bedding, etc.

FORM OF NOTICE OF DEATH.

I hereby give you Notice, that
a Private Patient, received into this house on the
day of 18 , died therein on the day
of 186 ; and I further certify, that
was present at the death of the
said and that the apparent
cause of death of the said
(*o*) was

Signed _____

(*p*) _____

Dated this day of One thousand
eight hundred and sixty-

To the Commissioners in Lunacy.

FORM OF NOTICE OF DISCHARGE.

I hereby give you Notice, that
a Private Patient, received into this house on the
day of 18 , was discharged therefrom (*q*)

(*n*) See 25 & 26 Vict. c. 111, s. 42—D. P. F.
(*o*) Ascertained by post-mortem examination, if so.
(*p*) Medical Proprietor of —— house, or Medical Attendant.
(*q*) Recovered, *or* relieved, *or* not improved.

by the authority of
on the day of 186

Signed _____

(*r*) _____

Dated this day of One thousand eight hundred and sixty-

To the Commissioners in Lunacy.

Ill-treatment.]—If any person having the care or charge of a single patient, or any attendant (whether male or female) of a single patient, in any way abuse, or ill-treat, or wilfully neglect such patient, he (or she) is liable to a penalty of £20 on summary conviction, or to indictment for misdemeanor (16 & 17 Vict. c. 96, s. 9, and s. 36).

Visits by Friends—Correspondence.]—See 8 & 9 Vict. c. 100, ss. 84, 85; and 25 & 26 Vict. c. 111, s. 40.

Visitation by Commissioners.]—Under the first Act, 8 & 9 Vict. c. 100, a selected body of the Commissioners, called "the Private Committee," was to be appointed for the purpose of visiting the single patients; but that limitation being found inconvenient (see "Further Report of the Commissioners in Lunacy to the Lord Chancellor, 24th June, 1847," pp. 22–27), it has been enacted by the later statute, 16 & 17 Vict. c. 96, s. 27, that the powers of the "Private Committee" may be exercised by the Commissioners, or one Commissioner, or two Commissioners, as the case may require. The cases notified to the Commissioners are to be recorded by their Secretary in a book to be called "The Private Register" (8 & 9 Vict. c. 100, s. 91); and one, or two, Commissioners may at all reasonable times

(*r*) Proprietor of —— house.

visit any such unlicenced house, and inquire as to the treatment and state of health, bodily and mental, of the patient, and report thereon to the Commissioners; and such reports are to be entered by their Secretary in a private register (s. 92).

Removal—Discharge.]—Such reports may be laid before the Lord Chancellor (s. 92); and if this be done in any case, the Lord Chancellor may, if he think fit, order the removal of the lunatic (s. 93), and any person detaining him in contravention of such order will be guilty of a misdemeanor (s. 93). The Lord Chancellor may also, on the report of the Commissioners, order any person detained in an unlicenced house to be discharged, or otherwise dealt with (16 & 17 Vict. c. 96, s. 18). As to discharge by relatives, see 16 & 17 Vict. c. 96, s. 17.

Visitation by County or Borough Visitors.]—On the request in writing of the Commissioners, or two of them, any single patient may be visited by the visitors of the county or borough in which the unlicenced house is situate (16 & 17 Vict. c. 96, s. 15).

Commission of Lunacy.]—It is desirable to notice the provisions of 8 & 9 Vict. c. 100, s. 94, and 16 & 17 Vict. c. 70, s. 54 (*ante*, p. 22), which enable the Commissioners in Lunacy to report to the Lord Chancellor, where the property of any person detained as a lunatic, but not so found by inquisition, is not duly protected; and the case is thereupon to be dealt with under a commission of lunacy. A different course was prescribed by 8 & 9 Vict. c. 100, ss. 95–98; but this was discontinued by s. 53 of 16 & 17 Vict. c. 70, and inquiry under commission substituted for it, by s. 54 (*ante*, p. 27). Where the property is small, however, a commission is not needed (25 & 26 Vict. c. 86, ss. 12–14; and *ante*, p. 27).

Sect. 4.—Private Lunatics in Registered Hospitals and Licenced Houses.

Legislation.]—As already stated (*ante*, p. 28), a lu-

natic may be taken care of by his relatives or friends; and if, instead of applying for a commission of lunacy, they think it better to place him in a private or public asylum, they can do so, subject to the regulations which are imposed by statute.

From the year 1774, when the 14 Geo. III. c. 49, the first Act for the regulation of private madhouses, was passed, up to the year 1845, those establishments were subjected to supervision by a numerous succession of temporary Acts; including the 2 & 3 Wm. IV. c. 107 (passed in 1832), which authorised the Lord Chancellor to appoint annually a certain number of Commissioners, to be styled the "Metropolitan Commissioners in Lunacy." In 1844, these Commissioners presented to the Lord Chancellor a most interesting and valuable report, to which they appended several suggestions for the amendment of the law; and in the following year the then existing Acts were repealed, and the law upon the subject was placed upon a permanent footing by the statute 8 & 9 Vict. c. 100, which was passed on 4th August, 1845. This Act was amended in 1853, by the 16 & 17 Vict. c. 96; and some further amendments have since been made by the 18 & 19 Vict. c. 105, and 25 & 26 Vict. c. 111.

Two Classes—Houses and Hospitals.]—There are two classes of establishments to which these enactments apply—houses in which lunatics are received for profit, and hospitals. By the interpretation clause of the 8 & 9 Vict. c. 100 (s. 114), it is declared that the word "hospital," as used in the Act, shall mean "any hospital or part of an hospital or other house or institution (not being an asylum) wherein lunatics are received, and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients." There is, therefore, a marked distinction between the two classes of establishments; but they are dealt with by the statutes very much on

the same footing, and placed under similar control. The houses, however, are to be licenced, but the hospitals merely registered.

Hospitals.]—With regard to hospitals, the Commissioners in Lunacy, in their 17th Annual Report (1863), remarked as follows:—"Previously to the date of the enactment empowering magistrates to erect and maintain asylums out of the county rates, lunatic hospitals formed the only charitable foundations for the insane in this country. At that time, namely in the year 1815, there were nine such charities in existence. * * In them are maintained, at low rates of payment, patients belonging to the poor and middle classes, who can ill afford to defray the expense incurred in a private asylum. In some no charge whatever is made for care and treatment; while in others a portion of the income is set apart as a fund destined for the relief of the poorest inmates. They are in most cases mainly supported by endowments or contributions from annual subscribers; and a few are in a great measure self-supporting. They are all governed by committees selected from the contributors. Being so constituted, they are free from the objection incident to a pecuniary interest in the patient; they are in fact benevolent institutions; and when they are looked upon in this light, it would appear desirable to render admission into them less difficult, if not in every case, yet at least in those where the patients suffer from sudden and uncontrollable impulses to commit violence or suicide, and who desire to place themselves under care and treatment." For an account of the "origin, history, and constitution" of the several Registered Hospitals, see the 9th Report, p. 15, and App. B.

The Commissioners have always strongly recommended the extension of this kind of provision for those of the insane poor who, though not paupers, are nevertheless unable to afford the expense incurred in a private asylum (see, among others, the 17th Report, p. 15, and the 23rd Report, p. 51); and in

their 29th Report (1875) they again refer to "the great want, which at present exists, of suitable asylum accommodation for patients above pauperism, but still in needy circumstances."

Hospitals to be Registered.]—Every hospital in which lunatics are received (including the Royal Hospital of Bethlehem, see 16 & 17 Vict. c. 96, s. 35) is required to have a physician, surgeon, or apothecary, resident therein, as the superintendent and medical attendant; and such superintendent is required, under a penalty of £20, to apply to the Commissioners in Lunacy, to have the hospital registered; and the Commissioners are thereupon to register it in a book to be kept for that purpose (8 & 9 Vict. c. 100, s. 43).

Boarders in Hospitals.]—A question has been raised, whether persons can be lawfully received as voluntary boarders in such hospitals, who, though not insane, and being in all respects free agents, may nevertheless be conscious of a want of power of self-control, or of addiction to intemperate habits, or of a liability to an attack or recurrence of mental malady, and may therefore be desirous of residing in an institution of this kind. The Commissioners in Lunacy (see 17th Report, p. 13, and Appendix F) having consulted counsel (Mr. Welsby) on this question, were advised that there appears to be nothing in the statutes to prevent the admission of the persons referred to as voluntary boarders into registered hospitals, and that there would apparently be no difficulty in enforcing legally the stipulations and conditions of any agreement, by bond or otherwise, for their residence therein. The case and opinion are subjoined:—

CASE.

By the Interpretation Clause, section 114, of the "Lunatics Care and Treatment Act, 1845" (8 & 9 Vict. c. 100), it is enacted, that "'Hospital' shall mean any hospital, or part of a hospital or other house or institution (not being an Asylum), wherein lunatics are received and supported wholly

or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients."

By the same section, "Patient" is declared to "mean every person received or detained as a lunatic, or taken care or charge of as a lunatic."

The 43rd section enacts, "That the regulations as to lunatics of every hospital in which lunatics are or shall be received, shall be printed." "That every such hospital shall have a physician, surgeon, or apothecary, resident therein, as the superintendent and medical attendant thereof;" and that upon the application of the superintendent, which he is required to make, "such hospital shall be registered in a book to be kept for that purpose by the Commissioners in Lunacy."

The above are the main provisions of the Act as respects the constitution and regulation of "Hospitals." It will be observed that their registration is a ministerial act on the part of the Commissioners, and is not subject to any condition, in reference to the nature and extent of the accommodation, or the numbers of patients to be received.

The rules and regulations for their government and management are required by the Act 16 & 17 Vict. c. 96, s. 30, to be submitted to the Secretary of State for his approval.

It remains to be considered what persons are legally admissible to the benefits of residence and medical care and treatment therein, and upon what conditions; and to this question the attention of counsel is specially desired. It will be necessary in considering the question to advert to some of the provisions of the law applicable also to licenced houses.

By the 4th section of the Act 16 & 17 Vict. c. 96, it is enacted as follows:—"Save as hereinafter otherwise provided, no person (not being a lunatic for, or in respect of whom, any money shall be paid or agreed to be paid) shall be boarded or lodged in any licenced house, and save where otherwise provided or authorized under this or any other Act, no person (not being a pauper) shall be received as a lunatic into any licenced house or hospital," without an order and two medical certificates, in the statutory form.

The sixth section (to which reference is made in that last

cited) provides, "That it shall be lawful for the proprietor or superintendent of any licenced house, with the previous assent in writing of two of the Commissioners, to entertain and keep in such house as a boarder any person who may have been discharged as a patient from such house, for such time after such discharge as he may desire to remain, not exceeding the time specified in such assent."

This last provision is by the "Lunacy Acts Amendment Act, 1862," s. 18, extended to any person who may have been within five years preceding a patient in any asylum, hospital, or licenced house, or under care as a single patient.

The above are the only enactments relevant to the questions upon which the Commissioners desire the opinion of counsel.

The Commissioners have reason to know that there are many persons not insane, who, being conscious of a want of power of self-control, or an addiction to intemperate habits, or fearing an attack or a recurrence of mental malady, and being free agents in all respects, are desirous of residing as voluntary boarders in an institution for the insane, with a view to medical treatment and supervision.

It has been suggested that the benefit of registered hospitals might, with propriety and advantage, be extended to the class of persons referred to, who, in the circumstances, and for the reasons above mentioned, may be willing and desirous voluntarily to place themselves as boarders therein, to submit to a modified control, and otherwise to conform to the general regulations and arrangements.

It is material to bear in mind that there is no provision in the Lunacy Acts expressly prohibiting or regulating the reception of boarders into hospitals, all such provisions being confined exclusively to licenced houses.

Assuming that there is nothing in the Charter of Incorporation or Rules of a Hospital to the contrary, the Commissioners desire to be advised upon the two questions following:—

1. Are persons such as those referred to legally admissible into Registered Hospitals, paying for their board and lodging as voluntary inmates?
2. Can such persons, either alone or jointly with others, by bond, agreement, stipulation as to notice, or otherwise, and if so, in what way, bind themselves to

conform to the arrangements of the Hospital into which they may wish to be received? and what power or authority will such contract confer on the Superintendents of such Hospitals?

OPINION.

1. 2.—I do not find in the Statutes any prohibition on persons of this description being admitted into Registered Hospitals as inmates, on the terms and in the manner herein mentioned; and inasmuch as by the hypothesis they are persons *sui juris*, I think they may contract, either alone or jointly with others, by bond, agreement, or otherwise, to conform to regulations therein expressed or referred to, and to reside in the Hospital, subject to any notice which may be agreed upon therein; and if such bond or agreement be made with the Superintendent, he will have the right of suing at law for the breach thereof, and of enforcing the requisitions and stipulations therein contained, by all legal remedies applicable to such instruments. I cannot define the rights of the parties beforehand more specifically.

W. N. WELSBY.

TEMPLE, *May* 12, 1863.

Idiots and Imbeciles.]—The institutions which have sprung up of late years, for training idiots and imbeciles, are in their nature Hospitals for the insane, and should be registered accordingly. (Fourth Report of the Commissioners in Lunacy, p. 9.)

Regulations in Hospitals.]—The registration of the hospital by the Commissioners is a ministerial act (*ante*, p. 40); but within three months after such registration, the Committee of Management are to submit for the approval of the Secretary of State the regulations to be observed in the hospital; which may be varied from time to time with the like approval (16 & 17 Vict. c. 96, s. 30). The regulations so approved are to be printed, and one copy is to be sent to the Commissioners, and another kept hung up in the visitors' room of the hospital (16 & 17 Vict. c. 96, s. 30; see also 8 & 9 Vict. c. 100, s. 43).

Houses to be licenced.]—Whilst hospitals are merely to be registered, every house for the reception of lunatics (*i.e.*, of more than one lunatic) must be licenced (8 & 9 Vict. c. 100, s. 44). Any person receiving two or more lunatics into any house without a licence, or keeping them there after the lapse of two months from the expiration of the licence, or after its revocation, is guilty of a misdemeanor (8 & 9 Vict. c. 100, s. 44; 18 & 19 Vict. c. 105, s. 18); and after the expiration or revocation of any licence, the powers of the Commissioners and Visitors, and the provisions of the Lunacy Acts, continue in force for all purposes, in the same manner as if the licence were still subsisting, so long as any lunatics are detained in the house (18 & 19 Vict. c. 105, s. 9).

By whom.]—The licences are granted by the Commissioners in Lunacy, within the limits of what is termed their "immediate jurisdiction;" and by the justices in quarter sessions, in all places beyond those limits (8 & 9 Vict. c. 100, ss. 14, 17). It will be convenient to consider the two modes of proceeding separately.

Commissioners in Lunacy.

The limits of what is termed the "immediate jurisdiction" of the Commissioners in Lunacy comprise the following places, namely:—

The City of London,
The City of Westminster,
The County of Middlesex,
The Borough of Southwark.

The following places in the county of Surrey:—

Barnes,
Battersea,
Bermondsey (St. Mary Magdalen),
Brixton,
Camberwell (St. Giles),
Clapham (Christ Church),
Deptford (St. Paul),
Dulwich,
Graveney,
Kennington,
Kew Green,
Lambeth (St. Mary),
Merton,

Mitcham,
Mortlake,
Newington (St. Mary),
Norwood,
Peckham,
Putney,
Roehampton,
Rotherhithe (St. Mary),
Stockwell,
Streatham,
Tooting,
Walworth,
Wandsworth,
Wimbledon.

The following places in the county of Kent:—

Blackheath,
Charlton,
Deptford,
Greenwich,
Lee,
Lewisham,
Southend,
Woolwich.

The following places in the county of Essex:—

East Ham,
Layton,
Laytonstone,
Low Layton,
Plaistow,
Walthamstow,
West Ham.

And every other place (if any) within the distance of seven miles from any part of the cities of London and Westminster, or borough of Southwark.

In all the places above-mentioned, the power of granting the licences, according to their discretion, rests with the Commissioners in Lunacy (8 & 9 Vict. c. 100. s. 14). No person, however, can act as Commissioner, or as Secretary or Clerk to the Commissioners, or in granting any licence, if at the time, or within a year preceding, he is or has been interested directly or indirectly, in any house licenced for the reception of lunatics, or the profits of such reception (s. 23).

When.]—The Commissioners in Lunacy, or five of them, are required to meet, at their office, on the first Wednesday in February, May, July, and November, in every year, to receive and determine the applications for licences; and they are further empowered to receive and determine such applications at any special meeting duly summoned for the purpose (8 & 9 Vict. c. 100, ss. 15, 16).

Conditions—Residence.]—The system of licencing

having been in force for many years (first, under the provisions of the original Act of 1774, 14 Geo. III. c. 49, and afterwards under the Act of 1828, 9 Geo. IV. c. 41, and lastly under the Act of 1838, 2 & 3 Wm. IV. c. 107, continued by successive enactments), there were many houses actually licenced at the time of the passing of the Act of 1845, 8 & 9 Vict. c. 100. Different provisions have therefore been made with regard to houses so licenced, and those for which licences may first be applied for subsequently to the date of the last-named statute; especially with respect to the obligation to reside upon the premises on the part of the person to whom the licence is granted. It is provided by the Act of 1853, that no person having, after the passing of the Act of 1845, received for the first time a licence for the reception of lunatics, or hereafter receiving for the first time such licence, shall receive a licence unless he shall reside on the premises licenced; subject to the proviso that, if there be two or more persons receiving the licence in any case, they or one of them shall so reside (16 & 17 Vict. c. 96, s. 2). (*s*) But with regard to cases in which application may be made for the continuance of a licence originally granted prior to the passing of the Act of 1845, that Act permits the residence of a superinten-

(*s*) The terms of this section are open to criticism; but the meaning is, perhaps, sufficiently clear. The section enacts that no person, in the cases specified, shall receive a licence, unless he shall reside on the premises licenced. This may mean, either that he shall be residing on the premises when the licence is applied for and granted; or that he shall continue to reside on the premises whilst the licence remains in force. The latter is doubtless the condition which the Act has really in view; but the words do not accurately express it, as they appear to make the present grant of the licence dependent upon a future proceeding. The form of the licence, however, as prescribed by schedule A, and s. 30, of the 8 & 9 Vict. c. 100, correctly rests the present grant not upon the future proceeding, but upon the present intention of the licencee. It runs in these terms:—"We, the Commissioners, do hereby authorize and empower the said A. B. (he intending to reside therein) to use and employ the said house, etc." Substantially the Act requires not only that the licencee shall be resident when the licence is granted, but that he shall undertake, or at least intend, to continue to do so.

dent in lieu of the person to whom the licence is granted (8 & 9 Vict. c. 100, s. 24); though it is further provided by the Act of 1862 (25 & 26 Vict. c. 111, s. 16), that in all such cases the physician, surgeon, or apothecary, required by Act of Parliament to reside in or visit the licenced house, shall be approved by the Commissioners; the proprietor of the house being rendered liable to heavy penalties for the breach of this provision. Apparently no licence is to include more than one house, except in the case of two or more houses which belong to one proprietor or to joint proprietors, and which are not separated from one another otherwise than by land in the same occupation, or by a road (8 & 9 Vict. c. 100, s. 25, now repealed; and 16 & 17 Vict. c. 96, s. 1. See also the Seventh Annual Report of the Commissioners in Lunacy, 30th June, 1852, p. 28).

Application.]—The person or persons applying for the licence (for apparently more than one person may apply) must give fourteen days' notice to the Commissioners, containing certain particulars specified in the Act (8 & 9 Vict. c. 100, s. 24). If the application is for a renewal of a licence, the applicant or applicants must also submit a statement of the names and number of the patients of each or either sex then in the house, distinguishing the private from the pauper patients (8 & 9 Vict. c. 100, s. 29). If, however, the application relates to a house not previously licenced, the notice must be accompanied by a plan and description of the premises, and by a statement of the number of patients to be received, and other particulars (8 & 9 Vict. c. 100, s. 24; 16 & 17 Vict. c. 96, s. 1). As to the punishment for wilful mis-statements or omissions, see ss. 27 and 29 of the 8 & 9 Vict. c. 100.

Practice of Commissioners.]—In their Thirteenth Report (31st March, 1859), the Commissioners in Lunacy describe the course which they pursue, in dealing with the applications thus received. Their statement is as follows (pp. 58, 59):—

"In reference to our practice of granting licences, it is not necessary to enumerate the instances in which we have considered it our duty to refuse them. The Legislature has given us a discretion on the subject; and the question to be considered by us, on receiving such applications, appears to be whether or not an additional house is required for the accommodation of insane persons, and also whether the qualifications of the persons applying are such as (under other circumstances) would induce us to grant the licence. In some districts the number of houses licenced is already too numerous.

"Should it seem advisable to grant a new licence, it is our custom to propose the following questions:—

"1. State your age, and whether you are married or single, and whether you propose to reside on the premises to be licenced.

"2. If married, is it proposed that your wife (or husband) should reside in the house to be licenced, and take any, and if any what, part in the charge and management of the patients?

"Have you any children, and if so, of what age and sex respectively, and is it proposed that they, or any of them, should be resident in the licenced house?

"3. Are you a medical man? If so, state where you received your professional and general education, what degree you have received, or examinations you have passed, and where, and for how long, you have been engaged in the practice of your profession? If not a medical man, state what your profession or occupation has been. Also state the name and address of the person who is to act as the medical visitor and attendant of the patients.

"4. State the nature and amount of your education, training, and experience with reference to the care and treatment of the insane, and when and where, and under what circumstances obtained.

"5. Produce testimonials, or other satisfactory evidence as to your skill and experience as a medical practitioner, and as a person fit to be intrusted with the charge of the insane; and also as to your possession of the necessary pecuniary means for enabling you to carry on and maintain the establishment in a comfortable state.

"6. What is the nature and extent of the interest which

you possess in the house and premises proposed to be licenced? Have any other persons, and who, by name and description, any and what interest in the house and premises jointly with you, or otherwise, or in the profits to be derived from the establishment?

"7. What class and number of patients, and of which sex, do you propose to receive into the house, and paying what weekly or other rate of board?

"Should the foregoing be satisfactorily answered, an inspection of the premises is undertaken, and a report made by one or more Commissioners as to their general capabilities for the number and class of patients for which a licence is desired. The Board subsequently considers the question, and, if satisfied, grants the licence, subject, if necessary, to such stipulations as the case may require.

"On granting licences for new houses, or promoting changes in houses already existing, we endeavour to secure for the inmates free intercourse within doors, and a ready access to the open air. These advantages being often curtailed when patients of both sexes are placed in dwellings of an ordinary size, standing in limited grounds or gardens, we have generally required that the proprietor of such houses should admit only one sex.

"The result of the progressive change thus effected by means of the foregoing requisitions and stipulations, will be made evident by stating that out of the 40 Metropolitan houses, only 17 are now licenced for the admission of both sexes; and in order that the most competent parties only should be allowed to act as superintendents of the insane, we have had it under serious consideration to grant new licences only to medical men."

In their Fourteenth Report (31st March, 1860), the Commissioners make the following additional remarks (pages 18, 19):—

"For a statement of our practice in granting licences for the first time, we take leave to refer your Lordship to our last Report (p. 53), and more especially to the questions, of which a copy will there be found, required to be answered by applicants.

"The subject generally of licences for the reception of

lunatics, and their grant, renewal, and transfer, has continued during the past year to engage our serious attention, and the importance of the considerations involved induces us, upon this occasion, shortly to reiterate the principles by which we are guided, in dealing with applications.

"As respects the Metropolitan district, we have practically come to the resolution not to add to the number of licenced houses, unless for special reasons, applicable to the particular case. In the event of a medical or other person of high character and qualifications, and possessing adequate pecuniary resources, applying for a licence to receive private patients in a suitable house, we should be disposed to make an exception, but should in that case, generally, if not invariably, limit the licence to patients of one sex.

"The licenced houses within our immediate jurisdiction, judging from the actual numbers of patients resident therein, appear fully to meet, not merely the requirements of the special locality (which would be comparatively unimportant, inasmuch as private patients are, for the most part, sent to asylums not in the neighbourhood of their homes), but in general the wants of the community. We have also to observe, that in consequence of the now rapid withdrawal of the pauper patients from the five large Metropolitan houses at present licenced to receive that class of the insane, extensive provision will shortly be made for the accommodation of patients of the middle and poorer classes, for whom it is hoped that ultimately adequate means of care and treatment will be afforded in public hospitals."

An absolute discretion is vested in the Commissioners, to grant or to withhold the licence applied for, as they think fit (8 & 9 Vict. c. 100, s. 14).

Form of Licence.]—The form in which the licence, when granted, is to be given by the Commissioners, is prescribed by the Act 8 & 9 Vict. c. 100, s. 30, and schedule A.

Cost.]—The licence bears a ten-shilling stamp; and a fee is to be paid for it, according to a prescribed rate (8 & 9 Vict. c. 100, ss. 30, 32). These fees are to be applied in the manner directed by the Act (8 & 9 Vict.

c. 100, ss. 33, 34, 35), which will be referred to more particularly hereafter. (*t*)

Duration.]—The licence is to be granted for such period, not exceeding thirteen calendar months, as the Commissioners may think fit (8 & 9 Vict. c. 100, s. 30).

Alteration of Premises.]—Previous notice, accompanied by a plan, must be given to the Commissioners, and their consent obtained, where any addition or alteration is proposed to be made, in the case of any house licenced by them (8 & 9 Vict. c. 100, s. 26).

Change of Premises.]—Special provision is likewise made for granting a licence, for such time as the Commissioners may think fit, for the transfer of the patients to another house from any house licenced by them, where the transfer becomes necessary in consequence of such house being pulled down, or occupied under the provisions of any Act of Parliament, or accidentally rendered unfit for the accommodation of lunatics, or where, for any reason, the transfer is desired by the person keeping such house (8 & 9 Vict. c. 100, s. 40).

Transfer of Licence.]—Where the licencee dies, or becomes incapable, the Commissioners may, by indorsement, transfer the licence, for the unexpired term, to the superintendent of the house or other person approved by them (8 & 9 Vict. c. 100, s. 39); but where the licence has been granted to two or more persons, and one of them dies, the licence remains in force as regards the survivor or survivors (*ibid.*). In their Fourteenth Report (1860), p. 20, the Commissioners have stated the views upon which they act in regard to the transfer of licences.

Revocation—Prohibition of Renewal.]—On the recommendation of the Commissioners, the Lord Chancellor may revoke or prohibit the renewal of any licence granted by them; due notice in either case being given to the person concerned, and, in the case of a revocation, being also published in the *London Gazette*

(*t*) See Introduction, chap. iv., *post.*

(8 & 9 Vict. c. 100, s. 42). As to the effect of these proceedings, see 18 & 19 Vict. c. 105, ss. 9, 18 (*ante*, p. 44).

Inspection.]—On the first visit to the house after the granting of the licence, the Commissioners are to examine it, and if they find it correct, to sign it; but if they find it to be informal, they are to make an entry accordingly in the Visitors' Book (8 & 9 Vict. c. 100, ss. 61, 65; 25 & 26 Vict. c. 111, s. 29).

Infringement.]—See *post*, p. 56.

Quarter Sessions.

The course pursued with regard to the licencing at quarter sessions is very similar to that just described, with regard to the licencing by the Commissioners; but with some important modifications. In all places not within the "immediate jurisdiction" of the Commissioners, the justices for the county or borough assembled in general or quarter sessions have the same authority for granting licences as the Commissioners have within their "immediate jurisdiction" (8 & 9 Vict. c. 100, s. 17); but in a borough, the consent of the Recorder, given in writing, is also required (s. 31). With respect to boroughs, it is further provided that the justices of every borough shall for the purposes of the Act assemble in special sessions at such times as the quarter sessions for the borough shall be holden, and that all acts required by the Act to be done by the justices of counties in quarter sessions may be done by the justices of boroughs at such special sessions (s. 115). Whether in counties or boroughs, however, no person can "act in granting any licence," if at the time, or within a year preceding, he is or has been interested, directly or indirectly, in any house licenced for the reception of lunatics, or the profits of such reception (s. 23).

Conditions—Residence.]—The remarks already made upon this point, with regard to licences granted by the Commissioners (see *ante*, p. 45), apply equally to licences granted by the justices (8 & 9 Vict. c. 100,

s. 24, and s. 25, now repealed; 16 & 17 Vict. c. 96, s. 1 and s. 2; and 25 & 26 Vict. c. 111, s. 16).

Application.]—The person or persons applying for the licence (for apparently more than one person may apply for the same licence) must give to the Clerk of the Peace for the county or borough in which the house is situate fourteen days' notice prior to the quarter sessions; and this notice must contain certain particulars specified in the Act (8 & 9 Vict. c. 100, s. 24). If the application is for the renewal of a licence, a statement of the names and number of the patients of each or either sex then in the house, distinguishing the private from the pauper patients, must at the same time be transmitted to the Clerk of the Peace, and also to the Commissioners in Lunacy (8 & 9 Vict. c. 100, s. 29). If, however, the application relates to a house not previously licenced, the notice must be accompanied by a plan and description of the premises, and by a statement of the number of patients to be received, and other particulars (8 & 9 Vict. c. 100, s. 24; 16 & 17 Vict. c. 96, s. 1); and copies of these documents must also be transmitted to the Commissioners in Lunacy, who are to examine the premises, and report to the justices, before they decide as to granting the licence (25 & 26 Vict. c. 111, s. 14). The notice, plan, and statement, together with the report of the Commissioners in Lunacy, must be laid by the Clerk of the Peace before the justices when they take the application into consideration (8 & 9 Vict. c. 100, s. 24; 25 & 26 Vict. c. 111, s. 14). As to the punishment for wilful mis-statements or omissions, see ss. 27 and 29 of the 8 & 9 Vict. c. 100.

Decision.]—An absolute discretion is vested in the justices, to grant or to withhold the licence applied for, as they think fit; the authority conferred upon them being the same as that which is conferred upon the Commissioners (8 & 9 Vict. c. 100, s. 17, and s. 14). It will be observed, however, that where a licence is applied for in respect of a house not pre-

viously licenced, the justices are not to decide until they have received and duly considered the report of the Commissioners (*ante*, p. 53; also 25 & 26 Vict. c. 111, s. 14). With regard to houses previously licenced, the copies transmitted to the clerk of the visitors (see *post*, pp. 60, 61), of the entries made by the Visiting Commissioners or visiting justices since the grant or last renewal of the licence, are to be laid before the justices on their taking into consideration the renewal of the licence to any house to which such entries relate (8 & 9 Vict. c. 100, s. 67; 25 & 26 Vict. c. 111, s. 36).

Form of Licence.]—A form for the licence is prescribed by the Act of 1845 (8 & 9 Vict. c. 100, s. 30, and schedule A); but another form is given in the Act of 1862 (25 & 26 Vict. c. 111, s. 14, and schedule A), for the cases above-mentioned, where a licence is granted by the justices for a house not previously licenced. This form recites that the application having been transmitted to the Commissioners in Lunacy, their report in reference to it has been received, and has been taken into consideration by the justices.

Copy to be sent to Commissioners.]—In every case a copy of the licence granted by justices is to be sent by the Clerk of the Peace to the Commissioners in Lunacy (8 & 9 Vict. c. 100, s. 28).

Cost.]—The stamps and fees are the same as in the case of licences granted by the Commissioners (8 & 9 Vict. c. 100, ss. 30 and 32); and the fees are to be applied in the manner directed by the Act (ss. 36, 37, 38).

Duration.]—The licence is to be granted for such period, not exceeding thirteen calendar months, as the justices may think fit (8 & 9 Vict. c. 100, s. 30).

Alteration of Premises.]—Where any addition or alteration is proposed to be made as regards any house licenced by justices, notice, accompanied with a plan, must be sent to the Clerk of the Peace, and the consent in writing of two of the visitors (see *post*,

p. 59) must be previously obtained (8 & 9 Vict. c. 100, s. 26); but such consent is not to be given until after the visitors have received and considered the report of the Commissioners in Lunacy, to whom due notice of the proposed additions or alterations is required to be sent (25 & 26 Vict. c. 111, s. 15).

Change of Premises.]—Special provision is likewise made for the transfer of the patients to another house from any house licenced by justices, where the transfer becomes necessary in consequence of such house being pulled down, or occupied under the provisions of any Act of Parliament, or accidentally rendered unfit for the accommodation of lunatics, or where, for any other reason, the transfer is desired by the person keeping such house (8 & 9 Vict. c. 100, s. 40). In such case, a temporary licence may be granted by "any two or more of the visiting justices (see *post*, p. 59) for the county or borough within which the new house is situate" (s. 40); but it seems that when this licence is granted in a borough, the consent of the Recorder will be requisite (s. 31).

Transfer of Licence.]—In case of the death or incapacity of the licencee, similar powers to those conferred upon the Commissioners (*ante*, p. 51) may be exercised by "any three justices for the county or borough" (8 & 9 Vict. c. 100, s. 39).

Revocation—Prohibition of Renewal.]—On the recommendation of a majority of the justices of any county or borough, in general or quarter sessions assembled, the Lord Chancellor may revoke any licence granted by the justices for such county or borough (8 & 9 Vict. c. 100, s. 41); and on the recommendation of the Commissioners in Lunacy, the Lord Chancellor may revoke or prohibit the renewal of any licence granted by any justices (s. 42); due notice in either case being given to the person concerned, and in the case of a revocation, being also published in the *London Gazette* (ss. 41, 42). As to the penal consequences of keeping lunatics in a house, in respect of

which the licence has been revoked, or has expired without renewal; and as to the powers of the Commissioners and Visitors in such cases; see 18 & 19 Vict. c. 105, ss. 9, 18 (*ante*, p. 44).

Inspection.]—The duty of the Commissioners as to inspecting the licence (*ante*, p. 52) applies to every house licenced by justices, as well as to those licenced by the Commissioners (8 & 9 Vict. c. 100, ss. 61, 65; 25 & 26 Vict. c. 111, s. 29). Moreover, by s. 65 of the first Act, the proprietor or superintendent of the licenced house is required to produce the licence to the visiting justices at every visit; but it does not appear that any particular duty with respect to it is cast upon the visiting justices (see ss. 62, 64).

Infringement.]—The Act of 1862 imposes a heavy penalty for any infringement of the terms of any licence (whether granted by the Commissioners or by the justices), as regards either the number or the sex, or the class of the patients received (25 & 26 Vict. c. 111, s. 17).

Visitation.

Extreme care has been taken by the Legislature to provide for the visitation of registered hospitals and licenced houses, so as to bring them under constant supervision, and to afford the most ample protection to the unfortunate and helpless persons confined within them. According to the general scheme of the statutes, all registered hospitals, wherever situated, and all licenced houses within the "immediate jurisdiction" (*ante*, p. 44) are placed under the supervision of the Commissioners in Lunacy; whilst all licenced houses situated in districts beyond the limits of the "immediate jurisdiction," are placed under the supervision of visiting justices, and also of the Commissioners in Lunacy. Special provision is likewise made for the medical visitation of all licenced houses in which there is no resident medical superintendent.

Registered Hospitals.]—Every hospital in which lu-

natics are received is to be visited, without previous notice, by two, at least, of the Commissioners (one being a physician or surgeon and the other a barrister), once at least in every year; such visits being made at such times as the Visiting Commissioners may think fit, and also at such other times (if any) as the Commissioners in Lunacy shall direct (8 & 9 Vict. c. 100, s. 61). In addition to these visits, any hospital may be visited at any time by any one or more of the Commissioners (25 & 26 Vict. c. 111, s. 30).

Licenced Houses within "immediate jurisdiction."]—Every licenced house within the "immediate jurisdiction" of the Commissioners is to be visited without previous notice, by two at least of the Commissioners, (one being a physician or surgeon and the other a barrister), four times at least in every year; such visits being made at such times as the Visiting Commissioners may think fit, and also at such other times (if any) as the Commissioners in Lunacy shall direct (8 & 9 Vict. c. 100, s. 61). The Lord Chancellor, however, on the representation of the Commissioners, may direct that any house licenced by them, and not receiving pauper patients, shall be visited twice only in the year (s. 61, *proviso*). In addition to these visits, every licenced house within the "immediate jurisdiction" may be visited at any time, and must be visited twice at least in every year, by any one or more of the Commissioners (25 & 26 Vict. c. 111, s. 29).

Powers and Duties of Visiting Commissioners.]—When visiting any such hospital or licenced house, the Commissioners are invested with large powers of inquiry, and the subjects into which they are specially to inquire are prescribed by the statutes. Thus it is incumbent upon them to inspect the whole of the premises; to see every patient; to ascertain whether any patient is under restraint, and, if so, why; to inspect the orders of admission and medical certificates, and in certain cases (see *ante*, p. 52) the licence, as well as the books required to be kept, and other documents (8 & 9

Vict. c. 100, s. 61, and s. 65). They are also to inquire as to the performance of Divine service; the occupations or amusements of the patients; the system of treatment, and other matters (8 & 9 Vict. c. 100, s. 64; 25 & 26 Vict. c. 111, s. 35); and to enter the result of their inspections and inquiries in the "Visitors' Book" (8 & 9 Vict. c. 100, ss. 61, 66), and any remarks they may think fit to make in the "Patients' Book" (s. 66).

Obligations of Superintendents.]—A corresponding obligation is imposed upon the proprietor or superintendent in every case, requiring him to show the premises and the patients, to answer the inquiries, and to produce the books and other documents (ss. 63, 64, 65, 66).

Copies of Entries.]—Copies of the entries made by the Visiting Commissioners in the "Visitors' Book," the "Patients' Book," and the "Medical Visitation Book" (as to which, however, see the note on s. 67, *post*), are to be forwarded to the Commissioners in Lunacy by the proprietor or resident superintendent of the licenced house or hospital, within three days after the visit (s. 67).

Report on Hospitals.]—After every visit to a hospital, the Visiting Commissioners are to report thereon to the Commissioners, and the report is to be entered by their secretary in a book to be kept for the purpose (s. 69).

Visits by Night.]—Any two or more of the Commissioners may visit and inspect any licenced house, or hospital, at such hour of the night as they may think fit (s. 71).

Special Visits.—Any two or more of the Commissioners may visit any patient (with certain exceptions, s. 81) in any house licenced by them, and after two visits, with an interval of seven days between them, may order his discharge, if they think fit (s. 76). A similar power is given with regard to any patient in a hospital, but its exercise is subject to some further restrictions (ss. 77, 79, 80, 81).

Licenced Houses beyond "immediate jurisdiction."]—

For the visitation of houses licenced by justices, in places beyond the "immediate jurisdiction" of the Commissioners, it is provided that visitors shall be appointed in every county or borough at the Michaelmas quarter sessions in every year (but in boroughs, with the consent of the Recorder, see s. 31), consisting of three or more justices, who are to act gratuitously, and one (or more) physician, surgeon, or apothecary, who is to be remunerated (ss. 17, 20). In the event of death, inability, disqualification, resignation, or refusal to act, the vacancy may be supplied at any quarter sessions (s. 18). The Clerk of the Peace is to publish a list of the visitors, and to send a copy to the Commissioners (s. 19); and he or some other person appointed by the quarter sessions (but in boroughs, with the consent of the Recorder, s. 31), is to act as the paid clerk to the visitors, and his appointment is to be published (s. 21). An assistant clerk may also be employed (s. 22). But no person interested in a licenced house can act as visitor, clerk or assistant clerk (s. 23). An oath of fidelity and secrecy is to be taken by each (ss. 17, 21, 22). If the money received for licences (*ante*, p. 54) should be insufficient to meet the charge for salaries and other expenses, the deficiency is to be supplied from the funds or rates of the county or borough (ss. 36, 37, 38).

Visitation by Visitors.]—Two at least of the visitors (one being a physician, surgeon, or apothecary), are to visit each licenced house within their jurisdiction four times a year, at least, and at such other times as the justices may direct (s. 62); and in addition, each house may be visited at any time, and must be visited twice a year, by one or more of the visitors (25 & 26 Vict. c. 111, s. 29). For this purpose, the powers conferred and duties imposed upon the visiting justices are very similar to those of the Visiting Commissioners (see *ante*, p. 57; and 8 & 9 Vict. c. 100, ss. 62, 64, 65, 66; 25 & 26 Vict. c. 111, s. 35); corresponding obligations being likewise imposed upon the proprietors or super-

intendents of the houses visited (*ante*, p. 58; and 8 & 9 Vict. c. 100, ss. 63, 64, 65, 66). Moreover, it is specially provided that the visitors shall be summoned by their clerk to meet at such time and place, for the purpose of executing their duties, as the justices in quarter sessions shall appoint; but that such appointment, summons and meeting shall be made and held as privately as may be, and in such manner that no proprietor, superintendent, or person interested in or employed about or connected with any house to be visited shall have notice of such intended visitation (s. 21).

Copies of Entries.]—Copies of the entries made by the visitors in the different books are to be forwarded by the proprietor or resident superintendent, within three days after the visit, to the Commissioners in Lunacy, and also to the clerk of the visitors (8 & 9 Vict. c. 100, s. 67); and these copies are to be laid before the justices when the renewal of the licence is considered (s. 67, and *ante*, p. 53).

Night Visits.]—Any two visitors may visit and inspect any licenced house within their jurisdiction, at such hour of the night as they shall think fit (s. 71).

Special Visits.]—Any two or more visitors of any licenced house (of whom one must be a medical man) may make special visits to any patient therein (with certain exceptions, s. 81); and after two such visits, may, if they think fit, order his discharge (s. 78); the exercise of this power being subject, however, to certain restrictions (ss. 79, 80).

Visitation by Commissioners.]—In addition to the visitation by the visiting justices, every licenced house not within the "immediate jurisdiction" of the Commissioners in Lunacy is to be visited, without previous notice, by two at least of the Commissioners (one being a physician or surgeon, the other a barrister) twice at least in every year (8 & 9 Vict. c. 100, s. 61); and any such house may also be visited at any time by any one or more of the Commissioners (25 & 26 Vict. c. 111, s. 29). Their powers and duties, and the corre-

sponding obligation of the superintendents, are similar to those which relate to the visitation of houses within the "immediate jurisdiction" (*ante*, pp. 57, 58; and 8 & 9 Vict. c. 100, ss. 61, 63, 64, 65, 66; 25 & 26 Vict. c. 111, s. 35); but it is further required that the Visiting Commissioners shall consider the observations made in the Visitors' Book by the visiting justices (8 & 9 Vict. c. 100, s. 61), and shall also carefully consider the state of mind of any patient, the propriety of whose detention may seem to them doubtful, or whose sanity may be specially brought under their notice (s. 68). If in any such case they make a minute in the "Patients' Book," a copy is to be forthwith sent to the clerk of the visitors; and the visitors, or two of them (one being a medical man), are thereupon required to visit the patient immediately, and to act as they shall see fit (s. 68).

Copies of Entries.]—Copies of the entries made by the Visiting Commissioners are to be sent, as in the case of other visits (*ante*, p. 60), to the Commissioners in Lunacy, and also to the clerk of the visitors, to be laid before the justices when the renewal of the licence is considered (8 & 9 Vict. c. 100, s. 67; 25 & 26 Vict. c. 111, s. 36; and *ante*, p. 53).

Report.]—After every visit to a licenced house not within the "immediate jurisdiction" the Visiting Commissioners are to make a report, which is to be entered by the Secretary of the Commissioners in a book to be kept for the purpose (8 & 9 Vict. c. 100, s. 69).

Night Visits.]—The authority of the Commissioners to visit by night applies to all licenced houses, whether licenced by themselves or by justices (s. 71).

Special Visits.]—Any two or more of the Commissioners (one being a physician and one a barrister) may make special visits to any patient (with certain exceptions, s. 81), detained in any house licenced by justices, and, after two such visits, order his discharge (s. 77); the exercise of this power being subject, however, to certain restrictions (ss. 79, 80).

Objects and Results.—The great importance of the general system of visitation to which licenced houses and registered hospitals are now subjected, can scarcely be overrated. Its objects and results are thus concisely noticed in the "Further Report" of the Commissioners, in 1847 (p. 61). "To ascertain that the patient is duly confined; that he has medical aid, fit attendance, and proper comforts during his confinement; that he is provided with employment and amusement; that his food is good, and his place of residence healthy, clean, well-ventilated and in good order; that he himself is not ill-treated, neglected or improperly restrained; and finally, that he is liberated when fit for liberation; are amongst the duties imposed upon the various visitors, and concurrently with them, upon this commission." "We are satisfied that the good condition of these establishments, more especially of the licenced houses, is mainly owing to the special supervision to which they are constantly subject." "Without adverting to the many cases where persons have been restored to the world by means of such intervention, important benefits and comforts of various sorts have been obtained for insane patients by the present system of inspection and supervision. The dwellings for the insane are no longer the gloomy prisons in which they were formerly confined; cleanliness, warmth, and ventilation are insisted upon; better diet, clothing, and bedding have been provided; personal restraint is diminished, and even where still employed, its severity is greatly mitigated, and its application strictly watched; the health and mental condition of the lunatic are more carefully considered; occupation and amusement are more generally afforded to him, and in all respects better treatment is secured; whilst an opportunity is periodically given to him of representing any hardship to which he may have been subjected, an advantage which, as is found by experience, many patients fully appreciate." Again (p. 93), "These facts will tend to show how advan-

tageous, and indeed how necessary, is the frequent visitation of all asylums. It is indispensable that powers of supervision should exist in every case, that they should be vested in persons totally unconnected with the establishment, and that the visitations should not be limited in point of number, and should be uncertain in point of time; for it is most important to the patients that every proprietor and superintendent should always be kept in expectation of a visit, and should thus be compelled to maintain his establishment and its inmates in such a state of cleanliness and comfort as to exempt him from the probability of censure. We are satisfied, from our experience, that if the power of visitation were withdrawn, all or most of the abuses that the Parliamentary investigations of 1815, 1816, and 1827 brought to light, would speedily revive, and that the condition of the lunatic would be again rendered as miserable as heretofore."

Medical Visitation.]—Where there is not a medical superintendent resident in any licenced house, provision is made for the regular visitation of such house by a medical attendant (8 & 9 Vict. c. 100, ss. 57, 58); but this point will be more fully noticed below (*post*, p. 64).

Visits by Friends.]—Provision is likewise made to enable the friends of the lunatics confined in any licenced house, or hospital, to visit them (8 & 9 Vict. c. 100, s. 85); but this point also will be more fully noticed below (*post*, p. 76).

Management.

The following remarks must be understood to apply to all registered hospitals and licenced houses (whether licenced by the Commissioners or by the Justices), unless some limitation be expressed.

Regulations.]—Regulations are to be framed by the committee of every registered hospital, and submitted to one of the Secretaries of State; and when approved by him, are to be printed, abided by, and observed

(subject to alterations, with the like approval); and a copy is to be sent to the Commissioners, and another copy kept hung up in the visitors' room of the hospital (8 & 9 Vict. c. 100, s. 43, and 16 & 17 Vict. c. 96, s. 30. (*u*) The Commissioners may, with the sanction of one of the Secretaries of State, make regulations for the government of any licenced house (16 & 17 Vict. c. 96, s. 31).

Medical Superintendent, or Attendant.]—In every hospital there must be a physician, surgeon, or apothecary resident therein, as the superintendent and medical attendant thereof (8 & 9 Vict. c. 100, s. 43). As to licenced houses, the provision is different. In every house licenced for 100 patients or more, the residence of a physician, surgeon, or apothecary, as the superintendent or medical attendant, is compulsory; in other cases it is optional; but if in any such case there be no resident medical man, the house must be visited regularly by a medical attendant; the frequency of such visits being regulated (under the directions of the Commissioners and Visitors) according to the number of patients for which the house is licenced, whether below 11, or below 50, or below 100, as the case may be (8 & 9 Vict. c. 100, ss. 57, 58). As to the residence of the licencee, see also *ante*, pp. 45, 52.

Medical Visitation Book.]—This book is to be duly kept in every house and hospital, by the medical superintendent or attendant. It is to be in the form prescribed by the Act of 1853, which superseded the form given in schedule H in the Act of 1845 (8 & 9 Vict. c. 100, s. 59; 16 & 17 Vict. c. 96, s. 25, and schedule D).

Medical Case Book.]—The medical superintendent or attendant is also to keep a book to be called "The Case Book," the form of which the Commissioners in Lunacy are empowered to prescribe by an order under

(*u*) See Ninth Report of Commissioners in Lunacy, 1855, pp. 10–19; and Appendix B, pp. 48–75. Also, *ante*, p. 43.

their common seal (8 & 9 Vict. c. 100, s. 60). On the 16th March, 1874, the Commissioners issued an order accordingly, (*x*) of which the following is a copy:—

CASE-BOOK ORDER.—REVISED 1874.

8 & 9 Vict. c. 100, s. 60.

The Commissioners in Lunacy, by virtue of the power vested in them by the Act of Parliament passed in the session holden in the eight and ninth years of the reign of Her present Majesty, intituled "An Act for the Regulation of the Care and Treatment of Lunatics," do hereby order and direct—

That the Medical "Case Book," by the said Act directed to be kept in every licenced house and hospital, shall be kept in the form hereinafter mentioned, viz.:—

First.—A statement to be entered of the name, age, sex, and previous occupation of the patient, and whether married, single, or widowed.

Secondly.—An accurate description to be given of the external appearance of the patient upon admission; of the habit of body, and temperament; appearance of eyes, expression of countenance, and any peculiarity in form of head; physical state of the vascular and respiratory organs, and of the abdominal viscera, and their respective functions; state of the pulse, tongue, skin, &c., and the presence or absence, on admission, of bruises or other injuries to be noted.

Thirdly.—A description to be given of the phenomena of mental disorder; the manner and period of the attack; with a minute account of the symptoms, and the changes produced in the patient's temper or disposition; specifying whether the malady displays itself by any, and what, illusions, or irrational conduct, or morbid or dangerous habits or propensities; whether it has occasioned any failure of memory or understanding, or is connected with epilepsy, or ordinary paralysis, or symptoms of general paralysis, such as tremulous movements of the tongue, defect of articulation, or weakness or unsteadiness of gait.

(*x*) See 29th Report of the Commissioners (1875), p. 60, and Appendix (N), p. 305. As to entry of death, see *post*, p. 78.

Fourthly.—Every particular to be entered which can be obtained respecting the previous history of the patient; what are believed to have been the predisposing and exciting causes of the attack; what the previous habits, active or sedentary, temperate or otherwise; whether the patient has experienced any former attacks; and, if so, at what periods; whether any relatives have been subject to insanity; and whether the present attack has been preceded by any premonitory symptoms, such as restlessness, unusual elevation or depression of spirits, or any remarkable deviation from ordinary habits and conduct; and whether the patient has undergone any, and what, previous treatment, or has been subjected to personal restraint.

Fifthly.—During the first month after admission, entries to be made at least once in every week, and oftener where the nature of the case requires it. Afterwards, in recent or curable cases, entries to be made at least once in every month; and in chronic cases, subject to little variation, once in every three months.

In all cases an accurate record to be kept of the medicines administered, and other remedies employed, with the results, and also of all injuries and accidents.

That the several particulars, hereinbefore required to be recorded, be set forth in a manner so clear and distinct as to admit of being easily referred to, and extracted, whenever the Commissioners shall so require;

And that the present order be in substitution for those of the 9th January, 1846, and of the 20th March, 1863, and that a copy hereof be inserted at the commencement of the Case Book.

Dated this 16th day of March, 1874.

Office of Commissioners in Lunacy, (L. S.)
No. 19, *Whitehall Place.*

Patients.]—The statutes contain numerous and minute provisions with regard to the admission, treatment, discharge, and other important points connected with the custody, care, and control of the patients received into these establishments. The detailed enactment upon each point should be carefully studied in

the statutes themselves; as a due observance of those enactments is of the utmost importance, as well for the benefit of the insane persons who are confined under the authority of the law, as for the protection of the medical men and others by whose agency they are so confined, or to whose care they are thus entrusted. The principal points appear to be these:—Admission; treatment; visits of friends; temporary absence for benefit of health, or on trial; escape and recapture; removal or transfer to another establishment; discharge on recovery, or otherwise; death.

Admission—Orders.]—To authorise the confinement in any licenced house, or hospital, of an insane person who has not been found lunatic by inquisition, it is required that there shall be a document addressed to the proprietor or superintendent by some relative or friend of the lunatic, and supported by the certificates of two medical men. This document is described in the statutes as an "order;" but it is in fact, and also in its terms, a simple "request" (16 & 17 Vict. c. 96, s. 4; and schedule A, No. 1). It could not, indeed, be otherwise; the reception of the patient into the particular establishment being a matter of voluntary arrangement and agreement between the proprietor or superintendent on the one hand, and the friends of the lunatic on the other. The person who undertakes the responsibility of signing the so-called "order," or request, is required (amongst other things) to state his "degree of relationship, if any, or other circumstance of connexion with the patient" (see the form in schedule A, No. 1); and he must himself have seen the patient within one month prior to the date of the order, and must specify the time and place at which he last saw the patient (25 & 26 Vict. c. 111, s. 23). A statement of certain particulars is required to be appended to the order; but it need not be signed by the same person (16 & 17 Vict. c. 96, schedule A, No. 1). Wherever possible, the order must contain the name and address of some relation

of the lunatic, to whom notice may be sent in the event of his death (25 & 26 Vict. c. 111, s. 25). As regards a licenced house, no medical attendant, or person having a pecuniary interest in the receipts, can lawfully sign such an order (*ibid.* s. 24).

The order may be signed before or after the medical certificates, or either of them (16 & 17 Vict. c. 96, s. 4; see also the Sixth Report of the Commissioners in Lunacy, 1851, p. 15). It must be signed prior to the admission of the patient, as he cannot lawfully be admitted without it (16 & 17 Vict. c. 96, s. 4); but it will not authorize his reception after one calendar month from its date (25 & 26 Vict. c. 111, s. 23).

In the case of a person found lunatic by inquisition, an order signed by the committee appointed by the Lord Chancellor, and having an office copy of such appointment annexed, is a sufficient authority for his reception into any hospital or licenced house, without any further order or any medical certificate (25 & 26 Vict. c. 111, s. 22).

Medical Certificates.]—The order is to be accompanied by the certificates of two duly registered medical men (16 & 17 Vict. c. 96, s. 4, and schedule A, No. 2; 25 & 26 Vict. c. 111, s. 47); but under special circumstances the lunatic may be admitted upon one such certificate, if two other similar certificates be obtained within three days after his admission (16 & 17 Vict. c. 96, s. 5). The two medical men who sign the certificates must not be professionally connected (*ibid.* s. 4); nor can either certificate be signed by a medical man who is a Commissioner or a Visitor (8 & 9 Vict. c. 100, s. 23); or who is subject to certain other disqualifications specified in the Acts (see 16 & 17 Vict. c. 96, s. 12; 25 & 26 Vict. c. 111, s. 24). The patient must be examined separately by the two medical men; and each must state the facts upon which he has formed his opinion, distinguishing the facts observed by himself from those communicated to him by others (16 & 17 Vict. c. 96, s. 4; and s. 10).

The examination by each medical man must take place within seven days prior to the patient's admission (*ibid.* s. 4). If incorrect or defective, the certificates (as well as the order) may be amended, with the sanction of the Commissioners, within fourteen days after the patient's admission (*ibid.* s. 11); but if they be not so amended, the Commissioners may order his discharge (25 & 26 Vict. c. 111, s. 27).

In their Fifteenth Report (1861), p. 65, the Commissioners remark as follows:—

Few of our duties require more vigilance than that of satisfying ourselves, in all doubtful cases, as to the validity of the orders and certificates on which patients are admitted into asylums, or become subject to detention in any place. From time to time we have issued printed instructions with the view of insuring as far as possible, on the part of superintendents, proprietors, medical practitioners, and others, an accurate compliance with the requirements of the law. Immediate steps are taken for correction, upon discovery of defects or omissions; and, where this is not found to be practicable, the substitution of new and valid certificates, or, as the unavoidable alternative, immediate discharge of the patient from illegal detention under certificates having no validity, has been insisted on.

Among such cases of the past year, one may be specially referred to, because of the importance of the questions involved in it. By the statute, the certifying medical man is required to set forth in the certificate, not merely his opinion of the insanity of the person examined, but the specific fact or facts indicating insanity on which that opinion is formed; in the body of the certificate, the date and place of examination are to be exactly stated; each medical man, where two certificates are necessary, is to examine the patient separately and apart from the other practitioner; and, if such examination has taken place at any period beyond seven days before admission of the patient into the house or asylum where he is detained, the certificates are invalid, and detention under them becomes illegal. The object of all these precautions is to provide, that no one shall be deprived of his liberty as a person of unsound mind, except upon specific grounds existing at the exact time when it is

proposed to place such person under restraint. It would of course be impossible that any examining medical man should exclude from his consideration facts known to him of the antecedents of the patients, immediate or remote; these are entitled to their full influence; but the Legislature has been careful to guard against such facts exercising undue influence in the certificate he is called on to give, by requiring that this certificate shall be directly deducible from examination on a particular day and at a specified place, and that the opinion expressed therein as having been formed on such particular day, shall be set forth as the result of his having observed at that time, in the person under examination, some specific fact indicating insanity.

In the case to which allusion has been made, no such specific fact was stated in either certificate; and, upon the necessary forms of amendment being suggested, it was found that the certificates of both the medical men were not given on what they observed on any particular day; but that, having attended the patient professionally for a considerable period, they had not any doubt, from her ordinary course of conduct, that the patient was of unsound mind, and that it was on this opinion they based their certificates. We had no alternative, in these circumstances, but to direct the discharge of the patient in order to a fresh examination, and certificates in compliance with the law.

The medical men who sign these certificates necessarily do so under grave responsibilities. Any medical man signing any such certificate in contravention of any of the provisions of the Acts is liable to a penalty of £20; and if he gives a false certificate, he is guilty of a misdemeanor (16 & 17 Vict. c. 96, s. 13; see also 8 & 9 Vict. c. 100, s. 106). (*y*) Attention should be also paid to the provisions of sect. 56 of 8 & 9 Vict. c. 100, with reference to the liabilities of persons concerned in the unlawful confinement of any person as an insane patient. Moreover, a medical man may be

(*y*) As to the prosecution of two medical men (*Reg.* v. *Dawson and another*) for signing certificates without examining the patient, see Sixth Report of the Commissioners (1851), p. 19.

exposed to an action at the suit of any person confined under his certificate. In the course of the year 1862, an important case of this kind occurred (*Hall* v. *Semple*, 3 F. & F. 337), which is referred to in the Seventeenth Report of the Commissioners in Lunacy (31st March, 1863, pp. 30-32) as follows :—

The subject of medical certificates, and the necessity for the utmost caution on the part of the medical practitioners who sign them, and the proprietors and superintendents who receive the patients to whom they relate, were, during the last year, brought prominently before the public in the case of *Hall* v. *Semple*, when the plaintiff obtained a verdict with £150 damages against the defendant, for having signed one of the certificates for his admission into Munster House, Fulham. The charge was, that Dr. Semple had negligently and culpably failed duly to inquire into the truth of the facts, from which mainly he drew his conclusion that Mr. Hall was insane; and in the course of the trial, which lasted five days, the law applicable to the case was fully discussed, and ably and elaborately laid down by the presiding judge. Upon being questioned by Mr. Justice Crompton, the jury stated their opinion that Dr. Semple *bona fide* believed that in what he did he was authorized by the Act, although he did it negligently; upon which Mr. Justice Crompton observed, "That is a verdict for the plaintiff, on the ground of culpable negligence and want of reasonable care and probable cause;" to which the jury assented.

We have now to advert to a grave violation of the law committed by another party in the case, and commented on during the trial. The second certificate for Mr. Hall's reception, signed by Mr. Guy, a surgeon, purported to be founded upon the examination of the patient upwards of six weeks prior to its date; whereas the 4th section of the Act 16 & 17 Vict. c. 96 requires that the patient should have been examined not more than seven clear days previously to his reception.

Mr. Hall was admitted into Munster House on the 31st July, 1862; and on the 2nd August, before any return respecting him had been made to our office, the house was visited by two members of this Board, whose attention was particularly directed by Mr. Elliott, the proprietor, to the

case of Mr. Hall, as apparently not insane. The Visiting Commissioners, who, without such an intimation, would have specially examined Mr. Hall, had a long, separate interview with him, during which the irregularity and invalidity of Mr. Guy's certificate transpired. Mr. Elliott was at once informed by the Visiting Commissioners that he could no longer legally retain Mr. Hall as a patient, and they made the following entries relative to his case in the "Visitors' Book:"—

VISITORS' BOOK.

"2nd August, 1852.

"We had a long and special interview with the patient last received" (Mr. Hall), "and which suggested the necessity of a full inquiry into his case and history. On examining the certificates under which he was admitted on the 31st ultimo, it appeared that one of them" (Mr. Guy's), "dated the 29th of July, was founded on a visit to the patient on the 13th of June, and is consequently wholly invalid. It follows that the patient can no longer be legally detained."

Mr. Hall was, upon this ground, forthwith discharged by Mr. Elliott. In other circumstances, had he remained a patient, the inquiry as to his insanity would have been followed up in regular course. As it was, there was no necessity for the Commissioners to determine that question. But it became our duty to consider the propriety of taking legal proceedings against Mr. Guy for having signed a certificate contrary to the provisions of the Act, and against Mr. Elliott for a misdemeanor in having received a patient on such a certificate.

Mr. Guy, in explanation, pleaded ignorance of the law respecting the dates of signing and examination, and stated that he had, in fact, seen Mr. Hall several times subsequently to his examination, and once within three or four days before signing the certificate. Mr. Guy was thereupon informed, that, although he had in this case been very culpable in neglecting to make himself acquainted with the salutary provisions of the Act, yet, as it did not appear to the Commissioners that he had acted in wilful violation of the law, they would forego any further proceedings against him.

As respects Mr. Elliott, who merely pleaded inadvertency

in omitting to observe the date of the examination, a letter was addressed to him by the solicitors of the Board, from which the following is an extract:—

"We are instructed by the Commissioners to say, that, having fully considered your explanation, they cannot think it satisfactory. In their opinion there is no part of the duty of the proprietor of a licenced house which requires greater care than the examination of certificates. Your long experience ought to have rendered you familiar with the particulars in regard to them, which demand special attention. The Commissioners, therefore, consider your negligence on this occasion as a most grave offence. They instruct us, however, to say that, although they will at present forego any further proceedings, yet, in the event of a similar occurrence, they will, without fail, institute a prosecution against you." Subsequently to the trial of the action, *Hall* v. *Semple*, it appeared to the Commissioners expedient that they should again address Mr. Elliott in reference to his illegal reception of Mr. Hall, and, in order to the promulgation of their views, to circulate generally copies of their communication.

Records and Returns.]—On the admission of a patient, certain records and returns are required to be made, which must be carefully attended to.

The Book of Admissions.]—In a book, which is to be called "The Book of Admissions," and to be kept according to a prescribed form (8 & 9 Vict. c. 100, s. 50, and schedule E), the name and certain other particulars relating to the patient are to be entered by the proprietor or superintendent within two days (*ibid.* s. 50), and the column headed "Form of Mental Disorder" is to be filled up by the medical attendant within seven days (*ibid.* s. 51) after his reception.

Notice to Commissioners.]—Within one clear day after the patient's reception, a notice of his admission, accompanied by a copy of the order and medical certificates (or certificate), must be transmitted to the Commissioners (8 & 9 Vict. c. 100, s. 52; 16 & 17 Vict. c. 96, s. 24, and schedule C; 25 & 26 Vict. c. 111, s. 28); and after two but within seven days from his

reception, a medical statement with respect to his mental state and bodily health must also be forwarded (*ibid.*). This medical statement or report will refer to the condition of the patient, not on admission, but after at least two days' observation of the case.

And to Visitors.]—In the case of a house licenced by justices, similar documents are likewise to be sent to the clerk of the visitors, after two and within seven days from the date of admission (8 & 9 Vict. c. 100, s. 52; 16 & 17 Vict. c. 96, s. 24).

Boarders.]—As to boarders in hospitals, see the remarks above (*ante*, p. 40). With regard to licenced houses, it is expressly provided that no person who is not a lunatic shall be received as a boarder, except in certain cases of persons who have been insane, and of friends of persons in confinement (16 & 17 Vict. c. 96, ss. 4, 6; 18 & 19 Vict. c. 105, s. 16; 25 & 26 Vict. c. 111, s. 18; see also the Eighteenth Report of the Commissioners in Lunacy, 1864, p. 104).

Treatment of Patients.]—It has been already stated that in every establishment there must either be a medical superintendent or medical attendant (*ante*, p. 64), who must keep a full record of the state of the establishment, and the treatment and condition of the patients, in the "Medical Visitation" and "Case" Books (*ante*, p. 64). (*a*) Amongst other things, these records must contain the name of every patient who is placed under restraint, or in seclusion, or under medical treatment, or who has suffered any injury or act of violence; as well as a correct description of the medicine and other remedies prescribed (8 & 9 Vict. c. 100, ss. 59, 60). The Commissioners may at any time call for copies of the entries in the "Case Book" (*ibid.* s. 60). Both the Commissioners and the Visitors, at their visits, are especially required to direct their attention to the system adopted, whether that of non-

(*a*) As to the prosecution of two medical men for making false entries in the Medical Visitation Book (*Reg. v. Maddock and Perfect*), see Sixth Report of the Commissioners (1851), p. 19 (5 Cox, C. C. x.).

coercion or otherwise, as well as to the cases of the patients actually placed under restraint; and also to the occupations or amusements of the patients, and other points affecting their treatment (*ibid.* ss. 61-64). With regard to the general subjects of medical and moral treatment, diet, classification, occupation, amusement, exercise, restraint, religious observances, and other similar matters, very full observations will be found in the two important Reports of the Commissioners of 1844 and 1847 (see pp. 113-163, of the former; and part IV., pp. 177-220, and Appendix L, pp. 389-495, of the latter. See also Eighth Report (1854), pp. 40-43, and Appendix G, pp. 123-209; and as to baths, see Eleventh Report, pp. 37-40, and Appendix L, pp. 117-125; and as to seclusion, see Thirteenth Report, p. 67).

Ill-treatment.]—If any superintendent, officer, nurse, attendant, servant, or other person employed in any licenced house or registered hospital, in any way abuse or ill-treat, or wilfully neglect any patient, he or she may be fined £20, or be indicted for misdemeanor (8 & 9 Vict. c. 100, s. 56; 16 & 17 Vict. c. 96, s. 9, and s. 36). (*b*) And if any nurse or attendant be dismissed for misconduct, the dismissal, and the cause of it, must be reported to the Commissioners within one week (16 & 17 Vict. c. 96, s. 26). "The object of this provision is, by means of a central register, available for general reference, to prevent improper persons from being employed in the care of the insane. It is very important that this enactment should be made known to all attendants" (Eighth Report of the Commissioners, 1854, Appendix B, p. 63; see also Ninth Report, 1855, pp. 40, 41; and Seventeenth Report, 1863, p. 38).

Attendants.]—With respect to the qualifications, duties, remuneration, and other points connected with the important subject of the day and night nurses and

(*b*) As to the prosecution of an attendant for manslaughter (*Regr.* v. *Hill*, 5 Cox C. C. 259), see Sixth Report of the Commissioners (1851), pp. 17-19.

other attendants, much valuable information may be derived from the Reports of the Commissioners (see especially, Ninth Report, 1855, pp. 40, 41; Eleventh Report, 1857, pp. 46, 47; Thirteenth Report, 1859, pp. 61-67, and Appendix D, p. 114; and Seventeenth Report, 1863, p. 20).

Visits of Friends—Correspondence.]—Provision is made to enable the friends of persons confined, or supposed to be or to have been confined as lunatics, to obtain information concerning them from the Commissioners and Visitors (8 & 9 Vict. c. 100, ss. 83, 84), and also to visit them whilst in confinement (*ibid.* s. 85). Letters written by patients to the Commissioners, or Visitors, are to be forwarded unopened; and if written to other persons, are likewise to be forwarded, except in special cases (25 & 26 Vict. 111, s. 40).

Escape and Re-capture.]—Notice of every escape and re-capture is to be given to the Commissioners; and in the case of a house licenced by justices, to the visitors also (8 & 9 Vict. c. 100, s. 53). If retaken within fourteen days, the lunatic may be retained under the original order and certificates; but not otherwise (ss. 87, 99). If the escape occur through the neglect or connivance of any officer or servant, he will be liable to a penalty of £20 (25 & 26 Vict. c. 111, s. 39).

Temporary Absence.]—Provision is made for sending or taking any patient, for the benefit of his health, to a specified place for a definite time; and also for permitting him to be absent on trial, for such period as may be thought fit (8 & 9 Vict. c. 100, ss. 86, 87; 18 & 19 Vict. c. 105, s. 17; 25 & 26 Vict. c. 111, s. 38. See Fifteenth Report of the Commissioners, 1861, pp. 66-68, and p. 72; and for an account of an excursion of patients to the seaside, see Seventeenth Report, 1863, Appendix F, p. 134).

Removal or Transfer.]—If, in consequence of ill-treatment, or for any other reason, it is deemed advisable to remove or transfer any patient from one esta-

blishment to another, this may be done by any person having authority to order his discharge (see 8 & 9 Vict. c. 100, ss. 72, 73, 75), with the consent of two of the Commissioners; and fresh medical certificates need not be obtained, but copies of the original order and certificates, together with the order of removal and consent, must be given to the proprietor or superintendent of the house or hospital to which the patient is transferred (16 & 17 Vict. c. 96, s. 20; also c. 97, s. 86). There is also a provision upon the same subject in the Lunatic Asylums Act of 1853, which it seems necessary to allude to here, as it empowers the Commissioners, or two of them, to order the removal of any lunatic "from any asylum, registered hospital, or licenced house, to any other asylum, registered hospital, or licenced house" (16 & 17 Vict. c. 97, s. 82). With regard to the exercise of these powers, see the Reports of the Commissioners, especially Ninth Report, 1855, p. 26, and Tenth Report, 1856, p. 23. The removal must be entered in the Register, and notice given to the Commissioners and Visitors (8 & 9 Vict. c. 100, s. 54).

Discharge on Recovery, or otherwise.]—On the recovery of any patient, notice is to be given to the person who signed the order of admission, or by whom the last payment was made; and if the patient be not removed within fourteen days, notice must then be given to the Commissioners, and, in the case of a house licenced by justices, to the Visitors also (16 & 17 Vict. c. 96, s. 19). Any patient may be discharged or removed, whether recovered or not, by the order in writing of the person who signed the order of admission (8 & 9 Vict. c. 100, s. 72), or, in the event of his death or incapacity, of some other person authorised to act in his stead (*ibid.* s. 73); but if the lunatic be dangerous, the consent of the Commissioners or Visitors must be obtained for his discharge or removal, though he may be transferred to some other establishment under the control of an attendant (*ibid.*

s. 75). If there be no person qualified to order the removal or discharge under ss. 72 and 73 of the 8 & 9 Vict. c. 100, the Commissioners may do so (25 & 26 Vict. c. 111, s. 43).

Power is also given to the Commissioners, and the Visitors, under certain circumstances and after special visits, to discharge any patient who is detained without sufficient cause (8 & 9 Vict. c. 100, ss. 76, 77, 78, 79, 80, 81).

Every discharge must be entered in the Register (s. 54); and in the "Book of Admissions" (s. 50); and notice is to be given to the Commissioners and Visitors (s. 54).

Death.]—On the death of any patient, a statement of the cause of death, with the name of any person present at the death, must be drawn up and signed by the medical attendant (8 & 9 Vict. c. 100, s. 55); and a certified copy must be sent by the proprietor or superintendent, within forty-eight hours, to the following persons, viz.:—The Commissioners; the person who signed the order of admission; the registrar of deaths for the district; and, in the case of a house licenced by justices, the clerk of the visitors (s. 55; see also s. 54). The death must be entered in the "Register," and also in the "Book of Admissions," by the proprietor or superintendent (ss. 50, 54), and in the "Medical Visitation Book" by the medical attendant (s. 59); and it is further provided by the Act of 1853, that a statement as to the cause of death, and the duration of the fatal disease, shall be entered in the "Case Book," and a certified copy transmitted within two days to the coroner, so that he may hold an inquest if he deems it necessary (16 & 17 Vict. c. 96, s. 19).

Sect. 5.—Private Lunatics in County or Borough Asylums.

Admission.]—It is provided by the 16 & 17 Vict. c. 97, that whenever it appears to the committee of

visitors of any county or borough asylum, that such asylum is more than sufficient for the accommodation of the pauper lunatics, the committee of visitors may, if they think fit, after giving notice by advertisement in some local newspaper, resolve to permit the admission of so many lunatics not paupers, but who, in the opinion of the committee, may be proper objects to be admitted into a public asylum, as to the committee may seem expedient (s. 43). This resolution they may at any time rescind or vary; and they may, if they think fit, by such resolution require that no such lunatic shall be admitted without an undertaking by the person signing the order for admission, for the due payment of the weekly charge for the lodging, maintenance, medicine, clothing, and care of such lunatic during his continuance in the asylum, and of the expenses of his burial in case he die therein, as well as for his removal from the asylum within six days after due notice given in writing by the superintendent of the asylum (s. 43). The lunatics not paupers so admitted, are to have the same accommodation in all respects as the paupers (s 43).

Other Provisions.]—The various provisions with regard to private lunatics received into public asylums, their admission under an order (or rather request) and medical certificates, the records and returns relating to them, their treatment and ill-treatment, correspondence, escape and recapture, transfer, removal and discharge, and death, are similar to, though not precisely identical with, those already detailed with respect to private lunatics in licenced houses and registered hospitals. They will be found in the following enactments:—

8 & 9 Vict. c. 100, ss. 56; 84, 85; 112, 113, 114.

16 & 17 Vict. c. 96, ss. 33, 34.

16 & 17 Vict. c. 97, ss. 74, 75, 76; 79; 82, 83, 84, 85, 86, 87, 88, 89, 90; 92, 93; 122, 123, 124; 132, and schedule F, Nos. 2, 3, 4, 5; G, Nos. 1, 2, 3.

25 & 26 Vict. c. 111, ss. 22, 23, 25, 26, 27, 28, 40, 44, 47.

Half-yearly Lists.]—The clerk of every asylum receiving private patients is required, on the 1st January and the 1st July in every year, to prepare a list containing the names of all the private patients in the asylum, and within fifteen days afterwards to transmit such list to the Commissioners in Lunacy (16 & 17 Vict. c. 97, s. 63; and schedule C, No. 2). He is also, within the same time, to make out a certificate under his hand of the number of private patients of each sex, and to transmit it to the clerk of the peace, or the clerk to the justices, to be laid before the justices of the county, or of the borough, as the case may be (s. 63).

Hospitals combined with Asylums.]—In these cases, such a resolution as is above referred to (*ante*, p. 79) can only be adopted "subject to and without prejudice to any agreement with any voluntary subscribers" (s. 43).

Sect. 6.—Lunatics wandering at large or not under proper care.

Notwithstanding the various provisions of the law which have been described in the foregoing pages, for ensuring the due care and treatment of lunatics when placed in confinement, there may still be cases which those provisions will not meet, and which may in fact be beyond their scope. A lunatic, for example, may be wandering about, away from all control; or he may be under the control of his relatives or friends, and nevertheless improperly treated. Such cases may be dealt with under the enactment contained in s. 68 of the "Lunatic Asylums Act, 1853" (16 & 17 Vict. c. 97). Although that statute relates chiefly to public asylums and pauper lunatics, this particular enactment is not so limited, but applies likewise to lunatics who are not paupers.

Wandering at large.]—If any person found wandering at large is deemed to be a lunatic (whether such person be, or be not, a pauper), he should be taken

before a justice of the peace, to be dealt with according to the statute. If he be so found by any constable, or overseer, or relieving officer—or if the case be brought to the knowledge of any of those officers—such officer is bound immediately to take him, or cause him to be taken, before a justice. If he be so found by any other person, such person may either give information to the constable, or overseer, or relieving officer, so that the requisite steps may be taken by the proper officer; or he may bring the case to the knowledge of some justice of the peace, who, "upon its being made to appear to him by the information upon oath of any person whomsoever, that any person wandering at large within the limits of his jurisdiction is deemed to be a lunatic," may order the constable, or overseer, or relieving officer to bring the alleged lunatic before him, or before some other justice having the like jurisdiction. The justice before whom the lunatic is thus brought, after calling to his aid a medical man (for whose remuneration provision is made by s. 69), may, on obtaining a medical certificate, as required by the Act, make an order for the reception of the lunatic into an asylum, or registered hospital, or licenced house. It is to be observed, however, that in any such case a justice may also act upon his own knowledge, and may examine the lunatic at his own abode or elsewhere. If he deems it desirable, he may suspend for fourteen days the execution of the order for the removal of the lunatic to an asylum; and the medical man also may, by his certificate, require the removal to be suspended. When the order is to be executed, the constable, or overseer, or relieving officer (as the case may be), must remove the lunatic accordingly; and those officers are liable to penalties for any neglect or refusal to perform the duties imposed upon them under this enactment (16 & 17 Vict. c. 97, ss. 68 70, 71). As to the medical certificates, see ss. 75, 76, 122.

Not under proper Care.]—The same enactment further provides for the case of any person, not a pauper and not wandering at large, who is deemed to be a

lunatic, and is not under proper care and control (16 & 17 Vict. c. 97, s. 68);—

Cruelly treated or neglected.]—And also for the case of any person, not a pauper, and not wandering at large, who is deemed to be a lunatic, and is cruelly treated or neglected by any relative or other person having the care or charge of him (*ibid.* s. 68).

In both these classes of cases the proceedings to be taken are very similar to those prescribed with reference to lunatics "wandering at large" (*ante*, p. 80); except that the lunatic must be brought before two justices, by whom the case is to be dealt with, after a preliminary examination by one justice, with the aid, if necessary, of a medical man (ss. 68, 69). The obligations and liabilities of the constables, overseers, and relieving officers, are also very similar (ss. 68, 70, 71).

Chargeability.]—When sent to the asylum, hospital, or house, the lunatic, whether previously in the receipt of relief or not, will become a pauper as regards his maintenance therein, and must be dealt with accordingly as a pauper lunatic, until he is taken under the charge of his friends or relations (see 16 & 17 Vict. c. 97, ss. 95, 96, and proviso to s. 94; and also *Reg.* v. *Winsford*, 3 N. S. C. 625, which referred to a similar enactment in the repealed statute, 8 & 9 Vict. c. 126, s. 49). His property, however, may be rendered available to meet the charge of his maintenance in the asylum or other establishment, under the provisions of the 16 & 17 Vict. c. 97, ss. 94 and 104.

Relatives and Friends.]—It is provided, as regards all the three classes of cases, that the enactment under consideration (s. 68) shall not restrain or prevent any relation or friend from retaining or taking the lunatic under his own care, if such relation or friend shall satisfy the justice (or the two justices), or the visitors of the asylum in which the lunatic is or is intended to be placed, that he will be properly taken care of (s. 68, last proviso).

If a lunatic be taken or kept under the care of his

relatives or friends (see preceding paragraph, and *ante*, p. 28), they are not only morally bound to exercise proper care in the management of him, but may become subject, in certain cases, to legal responsibility for cruel treatment or neglect. The powers of the Lord Chancellor, and of the Home Secretary, as to directing inquiries, have been already adverted to (*ante*, pp. 28, 29); and it may here be advisable to add a reference to some cases in which legal proceedings have been adopted, either for the protection of the lunatics, or alleged lunatics, or for the punishment of the relatives or other persons concerned in restraining or ill-treating them.

Ill-treatment.]—In *R.* v. *Smith* (2 C. & P. 449), two brothers and a sister were indicted (in 1826) for neglect and ill-treatment of an idiot brother, by keeping him confined in a dark, cold, and unwholesome room, without proper food, clothing, and other requisites. It was held, that "there is no legal obligation on one brother to maintain another, so as to make the omission indictable;" that "if one has his idiot brother, who is helpless, as an inmate in his house, and omits to supply him with proper food, warmth, etc., he is not indictable for the omission;" and that "if one has an idiot brother, who is bedridden, in his house, and keeps him in a dark room, without sufficient warmth or clothing, this will not be an assault or an imprisonment, nor will proof of this support an indictment for an assault or an imprisonment."

In *Reg.* v. *Pelham* (8 Q. B. 959), the mother of an illegitimate child, of unsound mind, was indicted (in 1846) for neglecting and ill-treating him, and was convicted on two counts; but judgment was arrested on both. On the first, the indictment was held to be defective "for want of a positive averment that the defendant ever committed the acts for which she stood indicted;" on the second, it was held that it was not shown to be the duty of the defendant to take care of the lunatic, and that (even if such duty had been

proved) it was not shown that any injury to the lunatic was actually caused, or would necessarily result from the mother's alleged misconduct.

In *Reg.* v. *Marriott* (8 C. & P. 425), the prisoner was indicted (in 1838) for the murder of an infirm woman, 73 years of age, who had been confined or detained in his house, and whose death was alleged to have been caused by his ill-treatment. It was laid down by Patteson, J., that if the jury found that the prisoner had taken upon himself by contract or otherwise the performance of that duty (viz., of providing her with necessaries), which the deceased, from age and infirmity, was incapable of doing, he would be guilty of murder, if he contemplated her death, but of manslaughter only, if her death was occasioned by his negligence, though he did not contemplate it.

In their Eighth Annual Report (31st March, 1854, pp. 36–38), the Commissioners in Lunacy mention the case of Evan Roberts, the son of a farmer in Carnarvonshire, who was kept for several years—first by his father, and after his father's death, by his brother —closely confined in a small room, chained to the bedstead, and otherwise neglected and ill-treated. After an investigation made in pursuance of 8 & 9 Vict. c. 100, ss. 112, 113 (*ante*, p. 29), an indictment was preferred against William Roberts, the brother, for unlawfully confining and imprisoning his brother, Evan Roberts, in an improper, excessive, and cruel manner. This was tried at the Carnarvonshire Summer Assizes in 1853, before Lord Campbell, C. J., who, in charging the jury, "distinctly laid it down that the use of restraint greater in degree, more severe in character, or longer in duration than is necessary for the security and care of a lunatic, is an offense at common law, punishable by indictment." In the same Report (pp. 38, 39), the Commissioners also mention the case of Charles Luxmore, a lunatic, and the son of a small farmer in Devonshire, who was likewise kept for several years, first by his father, and

afterwards by his brother-in-law, closely confined in a wretched cell, chained naked to the floor, and otherwise neglected and ill-treated. The brother-in-law was indicted at the Devonshire Summer Assizes in 1851, "for assaulting, falsely imprisoning, and cruelly treating the lunatic," found guilty, and sentenced to six months' imprisonment. (*c*)

In *Reg.* v. *Rundle* (6 Cox, Cr. C. 549; 25 L. T. 118; 24 L. J. R. (N.S.) M. C. 129) a husband was indicted (in 1855), under 16 & 17 Vict. c. 96, s. 9 (*ante*, p. 36), for ill-treating his wife, who was insane. He was con-

(*c*) For an account of some other cases of a similar kind, see the *Times* of December 10th, 11th, and 15th, 1863. In reference to the case of Evan Roberts, the Commissioners remark:—"In prosecutions for harsh and severe usage towards lunatics, on the part of relatives under whose roofs they reside, we have frequently met with much difficulty in procuring a conviction. Deplorable ignorance and prejudice still prevail among the lower, and even among many of the middling and educated classes, in regard to lunacy, more especially in the provinces, where the popular notion is, that the circumstance of a person being once attacked by insanity renders him as a matter of course necessarily violent and dangerous, and justifies resort to constant and rigorous confinement, and almost puts him beyond the pale of humanity; the moral as well as the legal obligation on the part of the relatives to take active measures for effecting the cure, or at least for assuaging the violence of the malady, by kind and judicious treatment, apparently never entering their conception." (Eighth Report, 1854, p. 38.) Shakspeare bears witness to a similar state of popular feeling in his day. Thus, in "Twelfth Night" (act 3, sc. 4), Sir Toby says, "Come, we'll have him in a *dark* room, and bound. My niece is already in the belief that he is *mad*." On this passage, Douce, in his "Illustrations of Shakspeare," 1839, p. 64, observes:—"The reason for putting Malvolio into a *dark* room was to make him believe that he was *mad;* for a *madhouse* seems formerly to have been called a *darkhouse*. In the next act, Malvolio says, 'Good Sir Topas, do not think I am *mad:* they have laid me here in hideous *darkness*.' And again, 'I say this *house* is *dark*.' In act 5, he asks, 'Why have you suffered me to be imprisoned, kept in a *darkhouse?*' In 'As You Like It' (act 3, sc. 1), Rosalind says that 'Love is a *madness*, and deserves as well a *darkhouse* and a whip, as *madmen* do.' Edward Blount, in the second dedication to his 'Hospital for Incurable Fooles,' 1600, 4to, a translation from the Italian, requests of the person whom he addresses to take on him the office of patron or treasurer to the hospital; and that if any desperate censurer shall stab him for assigning his office or place, he presently take him into the *dark ward*. And in the same work certain idle fools are consigned to the *darksome guest-house of their madness*."

The name of *darkhouse* for a *madhouse*, affords a pregnant suggestion

victed; but a question as to the construction of the Act being submitted to the Court of Criminal Appeal, the conviction was held to be wrong, the words in sect. 9, "person having the care or charge of a lunatic," being construed so as not to include a husband or, apparently, any other person having the care or charge of the lunatic by reason solely of the domestic relation subsisting between them. Parke, B., remarked—"The section only applies to such persons as have the charge and care of lunatics otherwise than in consequence of natural obligation, arising from the relation of husband and wife, or parent and child. Persons standing in that relation to a lunatic cannot be considered as having the care and charge of him in the same sense in which those words are applied to other persons in this section; and though section 68 of c. 97 uses the word 'relative' in conjunction with the words 'having care or charge,' it does not extend the operation of section 9; nor indeed impose any penalty for the neglect of the relative, but only provides for the proper treatment of the patient." It was not necessary, however, for the purpose of this case to decide as to the application of the Act to any other relation than that of husband and wife.

In *Reg.* v. *Porter*, which occurred in 1864 (33 L. J. R. (N.S.) M. C. 126) it was held by the Court of Criminal Appeal that the terms of the Act, 16 & 17 Vict. c. 97, s. 9, apply to the case of a man who voluntarily takes upon himself the care and charge of a lunatic brother, keeps him in his own house, and wilfully neglects him. As to the particulars of this case, in which inquiry was made by the Commissioners in Lunacy by direction of the Home Secretary, under 8 & 9 Vict. c. 100, ss. 112, 113, see the Eighteenth Report of

of the nature of the treatment to which lunatics were subjected in former days. Indeed, in Rosalind's remark, that lovers deserve "a *darkhouse* and a *whip*, as madmen do," we see the two chief points in the method then pursued in the "care and treatment" of the insane—*i.e.*, confinement and coercion, with pain and terror—a combination of punishment and restraint, without any attempt at alleviation.

the Commissioners in Lunacy (1864), p. 89. It was distinguished by the Court from the case of *Reg.* v. *Rundle* (*ante*, p. 85), in which, as pointed out by Pollock, C. B., "the ground of the decision was, that the husband was keeping his wife in the ordinary way. A husband has a right to the custody of his wife. The prisoner here had no legal charge or control of the lunatic merely as his brother." On this point, see *R.* v. *Smith* (*ante*, p. 83).

In *Reg.* v. *Elliott*, a son, alleged but not proved to be illegitimate, was indicted at the Quarter Sessions (in 1872), under 16 & 17 Vict. c. 96, s. 9, for neglect and ill-treatment of his lunatic mother; but the Court held, on the authority of *Reg.* v. *Rundle* (*ante*, p. 85), that having regard to his relationship with the lunatic, the Act did not apply. On this case the Commissioners in Lunacy remarked, in their Twenty-seventh Report (1873), p. 79, that they thought it unfortunate that the Court did not reserve the point of law, as they could not but believe that, looking at the decision in *Reg.* v. *Porter* (*ante*, p. 86), the Court of Criminal Appeal would have refused to extend the exception established in *Reg.* v. *Rundle* to any other relationship than that of husband and wife. It is to be observed, however, that in the decision of that case reference was also made to the relation of parent and child; but the Quarter Sessions, in *Reg.* v. *Elliott*, went beyond this, and extended the exception to the relation of child and parent, which, it is obvious, does not stand on the same footing as that of parent and child, with regard to the right of legal custody.

Restraint.]—On the other hand, it is necessary for all parties to be extremely careful how they act, even with a *bonâ fide* desire to do the best, in the case of a person who is insane, or supposed or believed to be so.

Brookshaw v. *Hopkins* (Lofft, 235; 240) was an action against *a Justice of the Peace* for improperly confining the plaintiff as a lunatic. It is stated "that

the defendant sent expresses to the relations, who took the plaintiff and confined him in a madhouse for six months." The defense turned chiefly upon the 24 Geo. II. c. 44; and the case occurred in 1773, the year before the passing of the first Act for the regulation of madhouses (see *ante*, p. 37); but it seems to show that any man may interfere to restrain the fury of a lunatic (Lofft, 243).

In acting upon this principle, however, due care and judgment must be exercised. In *Fletcher* v. *Fletcher* (28 L. J. R. (N.S.) Q. B. 134) Lord Campbell, C. J., stated, "By the common law of England, it is only a person of unsound mind, and dangerous to himself or others, that may be restrained of his liberty by another; such is taken to be the law from the case in Bro. Abr. down to the last case on the subject." The case here alluded to is Bro. Abr. tit. "Faux Imprisonment," pl. 28 (see 28 L. J. R. (N.S.) Q. B. 135; and 1 Com. B. R. 39).

Anderdon v. *Burrows*, M.D. (4 C. & P. 210), was an action of trespass against a *Medical Man*, Dr. Burrows, who (in November, 1829), without having seen the plaintiff, had authorised his confinement within his own house, as an insane person. It was held that a medical man is not warranted, merely on statements made to him by the relations of a person supposed to be insane, in sending men to take him into custody and confine him, unless he is satisfied, from those statements, that such a step is necessary to prevent the lunatic from doing some immediate injury to himself or others. Lord Tenterden, C. J., observed, "From the statement made by Dr. Burrows, when the parties were before the magistrate, it seems that it is usual, on the application of the family, to act in this manner. I confess I am sorry to hear it so said, for it certainly is not right; and although there may be difficulty in getting access to a party labouring under insanity, yet the proper course is, if access cannot be obtained, to apply to the high authority which has cognizance over

such matters, to get the party taken up, in order that he may be examined."

Scott v. *Wakem* (3 F. & F. 328), was an action of trespass against *a Medical Man*, for placing the plaintiff (who, it appeared, was suffering from *delirium tremens*) under restraint as a dangerous lunatic. This occurred in February, and the action was tried at the Surrey Summer Assizes, in 1862. It was held by Bramwell, B., that at common law, and apart from the lunacy statutes, a medical man may justify measures necessary to restrain a dangerous lunatic; and that if he be called in to attend a person suffering under *delirium tremens*, he may justify such measures as are reasonably necessary, either to cure the person so suffering, or to restrain him from doing mischief, so long as the fit lasts, or is likely to return.

In *Symm* v. *Fraser and another* (see *Times*, November 27, 28, 30, December 1, 2, 1863, and 3 F. & F. 859), an action was brought against two *Medical Men* (Dr. Fraser and Mr. Andrews) by Mrs. Symm, a widow, her complaint, in substance, being that in December, 1868, they had put her under restraint, and treated her as if she were labouring under a fit of *delirium tremens*, whereas, as she represented, she was not so; and their defense, in substance, being that she was so. It was tried at Westminster, before the Lord Chief Justice and a special jury; and a verdict returned for the defendants. At the close of his summing up, the Lord Chief Justice remarked—"If they (the jury) believed this evidence, could they doubt that, even if the medical men had directed that the plaintiff should be watched and restrained, they had done what was right, and for their patient's benefit? There had been, no doubt, some restraint upon natural personal liberty, but was it not necessary? Let the jury put themselves in the position of these gentlemen, or of the friends and relatives of this person (the plaintiff), and let them ask whether, even supposing that the defendants were responsible for all that had been done to

prevent her from getting out into the streets or throwing herself out of window, the jury would not consider that these gentlemen, so far from being proper subjects of condemnation and of censure, were not rather fit objects of gratitude and regard?" . . . "The Lord Chief Justice, in conclusion, desired them to consider the case, not only with reference to the interests of the individuals committed to the care of medical men, but also with a view to their interests in another sense—taking care not to impair or neutralize the energy and usefulness of medical assistance by exposing medical men unjustly to vexatious and harassing actions."

The *Attorney-General* v. *Pearson* (10 Jur. 651) arose out of a case which occurred in the parish of Islington, in 1842. James Elliot, an alleged lunatic, having been removed to the workhouse under the direction of the relieving officer, and his furniture placed in the charge of a person named Beavan, two actions were commenced by Elliot—one, for assault and false imprisonment; the other, for trespass, in taking the furniture. The first was brought against Allen and others, *Overseers*, Hicks, *Relieving Officer*, Ellis, *Master of the Workhouse*, Semple, *Medical Officer*, and Beavan; and was tried before Tindal, C. J., in the Court of Common Pleas, at Westminster, in May 1844. The jury found a verdict for the plaintiff, with £400 damages. A motion was afterwards made for a new trial (see 14 L.J.R. (N.S.) C.P. 136; 1 Com.B.R. 18); and by consent the Court reduced the damages to £200, and a *stet processus* was entered in the second action. The verdict failed as against Allen; and Semple and Beavan suffered judgment to go by default. The damages and costs on both sides, amounting to nearly £900, were paid by the trustees of the parish of Islington out of the rates; and an information was filed by two of the ratepayers, seeking to charge the trustees personally with the payment of the amount. The Court (V. C. Knight Bruce), under all the circumstances of

the case, and being of opinion that the facts were such as to justify the parish officers in interfering (although they had not pursued the course prescribed by the Act 9 Geo. IV. c. 40, s. 38, which required that the alleged lunatic should be taken before a justice), dismissed the information, without costs. This judgment did not determine the legal question as to the lawfulness of the expenditure by the trustees; but merely decided that the Court of Equity did not, under the circumstances of the particular case, consider that the trustees ought to be required to refund the amount to the parish.

In a case which occurred in the parish of Lambeth, a *Relieving Officer* being called upon to interfere in the case of an alleged lunatic, who was not a pauper, removed him to the lunatic ward of the Lambeth Workhouse, instead of taking him before a justice, in accordance with 16 & 17 Vict. c. 97, s. 68 (*ante*, p. 80). The following is the report of this case in *Knight's Official Advertiser* for November, 1863 (see also *Knight's Official Advertiser* for May, 1863, and the *Times* for May and December, 1863):—

COURT OF COMMON PLEAS.—NOV. 3.—TURK *v.* BARKER.

In May last an action was brought by the plaintiff against the defendant, a relieving officer for the parish of Lambeth, for having caused him to be taken and placed in the lunatic ward of Lambeth Workhouse, where he was detained for some days. It appeared, from the evidence at the trial, that the family of the plaintiff, in May, 1862, made complaint to the relieving officer of the violent conduct of the plaintiff, and a certificate was given by Dr. Cronin, a medical practitioner, to the effect that the plaintiff "was of unsound mind, aggravated by drink, and wholly unfit to be at large; that his conduct both at home as well as abroad was outrageous, and that he was continually threatening his own life and that of his children." The relieving officer, under these circumstances, went to the house of the plaintiff, and caused him to be placed in a cab and driven to the workhouse, where he

was placed in the lunatic ward. When there he was visited by the medical officer, who could not for two or three days pronounce any positive opinion as to the sanity of the plaintiff, as he was vehemently excited at his position. Eventually he came to the conclusion that the plaintiff was of sound mind, though very excitable from the effects of drinking. Mr. Justice Byles, in summing up, said, that what had happened to the plaintiff had probably been most beneficial to him, and that there was no pretense for imputing any malicious motive to the defendant, who had simply acted as he believed it to be his duty to do. The defendant, however, as he had not obtained the certificates required by the statute, was legally wrong, and a verdict must go against him. The jury thereupon gave a verdict for the plaintiff, with £20 damages.

A rule *nisi* having been obtained to enter the verdict for the defendant, or for the plaintiff with nominal damages, Mr. Best now showed cause against it, and Mr. Serjeant Ballantine appeared in support of the rule. For the defendant it was contended that the damages were excessive, that the defendant had acted *bona fide*, and without malice, at the instigation of the man's own family and his neighbours, and that the confinement he had been subject to had cured him. The Court held that the damages were the province of the jury, and that they ought not to disturb the verdict.

Sect. 7.—Lunatics from India.

An Act which was passed in 1851, "to give better effect to inquisitions of lunacy taken in India," provides for the removal from India to the United Kingdom, by order of the Supreme Court of Judicature at any of the Presidencies of India, of any idiot, lunatic, or person of unsound mind, for whom a guardian, keeper, or curator of person and estate has been appointed by such Supreme Court. See 14 & 15 Vict. c. 81, ss. 5, 6, 7.

THE STATUTES.

It is difficult to arrange the Lunacy Acts according to any systematic classification, as the provisions which refer to the different branches of the subject are intermingled in the various Acts in a very inconvenient manner. As far, however, as it has been found practicable to do so, they are here distributed in accordance with the general arrangement of the subject-matter adopted in the Introduction; and it has been deemed most convenient to prefix immediately to each division of the Statutes the particular chapter of the Introduction relating to it.

PAGE

I. Statutes relating to Private Lunatics:—
 a. Chancery Lunatics—
 1. Commissions of Lunacy 94
 2. Lunatics not so found by inquisition . 94
 b. Lunatics under Certificates—
 3. Single patients in unlicenced houses . . 181
 4. Registered hospitals and licenced houses . 181
 5. County and borough asylums . . . 181
 6. Lunatics wandering at large, or not under proper care 181
 c. Lunatics from India—
 7. Removal to United Kingdom . . . 181
II. Statutes relating to Pauper Lunatics—
 1. County and borough asylums . . . 334
 2. Registered hospitals and licenced houses . 334
 3. Workhouses 334
 4. Lunatics receiving Out-Relief . . . 334
 5. Incidence of the charge 335
 6. The metropolis 335
III. Statutes relating to Criminal Lunatics . . 578
IV. Statutes relating to Commissioners in Lunacy . 626

I. Statutes relating to Private Lunatics.

a. Chancery Lunatics.

I. Commissions of Lunacy (*a*)—

		Page
17 Edward ii. c. 11, and c. 12	date uncertain	95
2 & 3 Edward vi. c. 8, s. 3	1548	97
16 & 17 Vict. c. 70	15 Aug. 1853	98
18 & 19 Vict. c. 13	26 April 1855	162
19 & 20 Vict. c. 120, s. 36	29 July 1856	164
23 & 24 Vict. c. 127, s. 29	28 Aug. 1860	165
25 & 26 Vict. c. 86	7 Aug. 1862	166
30 & 31 Vict. c. 87, s. 13	12 Aug. 1867	100
32 & 33 Vict. c. 91, s. 13	9 Aug. 1869	108
36 & 37 Vict. c. 66, ss. 17, 18	5 Aug. 1873	179
38 & 39 Vict. c. 77, s. 7	11 Aug. 1875	180

As to Estates of Lunatics, see also—

1 Geo. i. st. 2, c. 10 (referred to in 16 & 17 Vict. c. 70, s. 128)	1714	137
13 & 14 Vict. c. 60	5 Aug. 1850	137
15 & 16 Vict. c. 55	30 June 1852	
15 & 16 Vict. c. 87, s. 15 (referred to in 16 & 17 Vict. c. 70, s. 138)	1 July 1852	
38 & 39 Vict. c. 87, ss. 76, 77, 88	1875	137
38 & 39 Vict. c. 92, s. 38	1875	

2. Lunatics not so found by Inquisition (*b*)—

8 & 9 Vict. c. 100,—			238
ss. 95, 96	4 Aug.	1845	240
15 & 16 Vict. c. 48	30 June	1852	261
16 & 17 Vict. c. 70,—			111
ss. 33, 53, 55–103	15 Aug.	1853	118, 136
25 & 26 Vict. c. 84,—			170
ss. 12, 13, 14, 15	7 Aug.	1862	173

b. Lunatics under Certificates and c. Lunatics from India.

[See *post*, p. 181.]

(*a*) See Introduction, *ante*, pp. 4–26.
(*b*) See Introduction, *ante*, pp. 26–28.

17 Edw. II. st. 1. (*a*)

Prerogativa Regis.

Of the King's Prerogative.

c. xi.

The Custody of Lands of Idiots.

The King shall have the custody of the lands (*b*) of natural fools, (*c*) taking the profits of them without waste or destruction, and shall find them their necessaries, of whose fee soever the lands (*b*) be holden; and after the death of such idiots, (*c*) he shall render the same to the right heirs, so that such idiots (*c*) shall not aliene, nor their heirs be disinherited.

(*a*) Taken from the "Statutes of the Realm," as printed by the Record Commission. See also the Revised Edition of the Statutes, published by authority, vol. 1 (1870), p. 132. Although this statute is generally described as a statute of 17 Edward ii., the accuracy of this description is open to doubt; and it is placed by the Record Commission among those, "the exact date whereof appears uncertain, but which have been uniformly considered as made previous to Edward iii." Most of its provisions (viz., cc. 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, and 15), were repealed by the Act, 26 & 27 Vict. c. 125, "for promoting the revision of the statute law by repealing certain enactments which have ceased to be in force or have become unnecessary." The two chapters (11 and 12) relating to idiots and lunatics, however, are not affected by that Act. What is given above is a modern translation of those chapters, the original statute being in Latin. The passages between [] are readings from different manuscripts. It may be well to add that these two chapters are usually cited as c. 9 and c. 10; but they are printed in the "Statutes of the Realm" as c. 11 and c. 12.

(*b*) Although "lands" alone are mentioned, it seems that the prerogative extends to the custody of the person, goods, and chattels (4 Rep. 126; F. N. B. 232).

(*c*) The definition of idiocy, lunacy, and insanity is a subject which has frequently been judicially considered; and without attempting to enumerate all the decisions, the following authorities may be referred to—4 Rep. 124 b, 128 a; Co. Lit. 246 b, 247 a, b; Fitz. N. B. 233, D; 1 Hale P. C. 29, 31; 1 Ridg. P. C. 518, 533; Blackstone, Comm.; Bacon's Abr.; Brooke's Abr.; Viner's Abr., 1 Russell on Crimes, 6-17; Lord Donegal's Case, 2 Ves. 408; *Ball* v. *Mannin*, 1 D. and Cl. 393; *Harrod* v. *Harrod*, 1 K. & J. 4; *Ridgway* v. *Darwin*, 8 Ves. 65; *ex parte*

c. xii.

Of Lands of Lunaticks.

Also the King shall provide, when any that beforetime hath had his wit and memory happen to fail of his wit, as there are many [with lucid intervals], (*d*) that their lands (*b*) shall be safely kept without waste and destruction, and that they and their household (*e*) shall live and be maintained competently (*f*) with the profits of the same, and the residue besides their sustentation shall be kept to their use, to be delivered unto them when they come to right mind; so that such lands and tenements (*b*) shall in nowise [within the aforesaid time] be aliened; and the King shall take nothing [of the profits] to his own use. And if the party shall die in such estate, then the residue shall be distributed for his soul by the advice of the Ordinary. (*g*)

Barnsley, 3 Atk. 168; *ex parte* Cranmer, 12 Ves. 455; *Carew* v. *Johnston*, 2 Sch. & Lef. 280; *Frere* v. *Peacocke*, 1 Rob. E. R. 442; *Midway* v. *Croft*, 3 Curt. 671; *Dew* v. *Clarke*, 5 Russ. 167; *Waring* v. *Waring*, 6 Moo. P. C. 350. As to the principal forms of insanity, see the memorandum contained in the Report made to the Lord Chancellor by the Metropolitan Commissioners in Lunacy in 1844 (pp. 102–113).

(*d*) As to lucid intervals, see *Att.-Gen.* v. *Parnther*, 3 Br. C. C. 444; *Hall* v. *Warren*, 9 Ves. 611; *Groom* v. *Thomas*, 2 Hagg. E. R. 433; *Wheeler* v. *Alderson*, 3 Hagg. E. R. 575; *Wheeler* v. *Batsford*, 3 Hagg. E. R. 599; *Brogden* v. *Brown*, 2 Add. 445; *Ayney* v. *Hill*, 2 Add. 609; *re* Holylands, 11 Ves. 10; *White* v. *Driver*, 1 Phillim. 88; *Cartwright* v. *Cartwright*, 1 Phillim, 101; *Bannatyne* v. *Bannatyne*, 2 Rob. E. R. 472; 16 Jur. 864; *Waring* v. *Waring*, 6 Moo. P. C. 357. On this subject, see also the remarks in the Report made in 1844 by the Metropolitan Commissioners in Lunacy (pp. 104, 105).

(*e*) As to allowance for maintenance of family, see *Foster* v. *Marchant*, 1 Vern. 263; *ex parte* Whitbread, 2 Meriv. 100; *re* Cotton, 2 Mer. 100 n.; *re* Drummond, 1 M. & Cr. 631; *re* Blair, ib. 303; *re* Creagh, 1 Dru. & W. 323; *Edwards* v. *Abrey*, 2 Coo. t. Cott. 185; *re* Lineham, 2 Jo. & Lat. 29; *re* Clarke, 2 Phill. 283; *Bradshaw* v. *Bradshaw*, 1 Jac. & W. 647; *ex parte* Haycock, 5 Russ. 154; *re* Carysfort, 1 Cr. & Ph. 76; *re* Thomas, 2 Phill. 169; *re* Hewson, 21 L. J. R. (N.S.) ch. 825; *re* Croft, 32 L. J. R. (N.S.) ch. 481.

(*f*) *Holmes'* case, Dyer, 25 b; 4 Rep. 127 b.

(*g*) On this point, see Blackstone's remark (*ante*, p. 10), that the residue, "by the subsequent amendments of the law of administration, shall now go to the executors or administrators."

2 & 3 Edw. VI. c. 8, s. 3. (*h*)

An Act touching the finding of Offices before the Escheator.

[A.D. 1548.

Sect. VI. Also when one person or more is or shall be founden heir to the King's tenant by office or inquisition, where any other person is or shall be heir; or if one person or more be or shall be founden heir by office or inquisition in one county, and another person or persons is or shall be found heir to the same person in another county; or if any person shall be untruly founden lunatick, (*i*) idiot (*i*) or dead: Be it enacted by the authority aforesaid, that every person and persons, grieved or to be grieved by any such office or inquisition, shall and may have his or their traverse to the same immediately or after, at his or their pleasure, and proceed to trial therein, and have like remedy and advantage as in other cases of traverse upon untrue inquisitions or offices founden; any law, usage, or custom to the contrary in anywise notwithstanding. (*j*)

(*h*) This is marked as s. 6 in the ordinary editions of the statutes; but in the "Statutes of the Realm," printed by the Record Commission, it is marked as s. 3. See also the Revised Edition of the Statutes, published by authority, vol. i. (1870), p. 540.

(*i*) This statute, so far as regards persons found lunatic, idiot, or of unsound mind, was amended by 6 Geo. iv. c. 53; which, however, was repealed by the 16 & 17 Vict. c. 70 (see *post*). As to the further provisions on the subject, see 16 & 17 Vict. c. 70, ss. 148–151, *post;* and 25 & 26 Vict. c. 86, ss. 3, 7, and 11, *post.*

(*j*) No right to traverse at common law—4 Co. Rep. 55 a. As to the right to traverse under the statute, see *re* Bridge, Cr. & Ph. 338; 10 L. J. R. (N.S.) ch. 404; 6 Jur. 69; and *re* Cumming, 1 De Gex, M. & G. 537; 21 L. J. R. (N.S.) ch. 753; 16 Jur. 483. See also *ex parte* Roberts, 3 Atk. 5; *ex parte* Barnsley, 3 Atk. 184; *ex parte* Southcote, 1 Amb. 109; *ex parte* Fust, 1 Cox, 418; *ex parte* Wragg, and *ex parte* Ferne, 5 Ves. 430, 832; *ex parte* Ward, 6 Ves. 579; *ex parte* Hall, 7 Ves. 263; *ex parte* Sherwood and Margary, 19 Ves. 280.

16 & 17 Vict. c. 70.

An Act for the Regulation of Proceedings under Commissions of Lunacy, and the Consolidation and Amendment of the Acts respecting Lunatics so found by Inquisition, and their Estates.

[15th *August*, 1853.

For removing or diminishing the delays and expenses now attending on the execution of Commissions in the nature of writs de lunatico inquirendo, and the proceedings consequent on inquisitions taken thereon, and for regulating and amending the practice and course of procedure in matters of lunacy, and for consolidating and amending the several Acts of Parliament respecting the care and management of the persons and estates of lunatics so found by inquisition, and the appointments, duties, and salaries of officers in lunacy, be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Acts and parts of Acts named in first Schedule repealed, but Validity of Proceedings, &c., not to be affected.—Mode of Proceeding in existing Cases.

I. The several acts of Parliament mentioned in the first schedule hereunder written shall be and the same are hereby repealed, to the extent specified concerning the same Acts respectively in the third column of the same schedule, but so that the validity of any proceeding taken or pending under the said Acts or any of them, before or at the commencement of this Act, or any appointments, salaries, annuities, compensations, or allowances made or given by or under the said Acts or any of them, before the commencement of this Act, shall not be taken away, diminished, or in anywise injuriously affected by the repeal aforesaid; and no new or further order, minute, or direction whatsoever, shall

be deemed to be necessary by reason or in consequence of the repeal aforesaid, respecting any such appointment, salary, annuity, compensation, or allowance as aforesaid, except where by this Act any salary or other payment is made payable out of a fund not heretofore chargeable therewith; and all proceedings respecting the person or estate of every person before the commencement of this Act, found by inquisition idiot, lunatic, or of unsound mind, and incapable of managing himself or his affairs, or any proceedings for the purpose of procuring such a finding, shall be carried on, as far as may be practicable, according to the provisions of this Act, and, subject thereto, according to the provisions of the said Acts or any of them, which shall for that purpose be deemed to continue in force notwithstanding the repeal aforesaid, or in case of doubt as to the mode of procedure in such of the modes aforesaid as the Masters in Lunacy shall direct.

Interpretation of Terms.

II. In this Act, unless there be something in the subject-matter or context repugnant to the construction—

The expression "the Lord Chancellor" shall be construed to mean the Lord High Chancellor of *Great Britain* for the time being, and to include or be applicable to the Lord Keeper or Lords Commissioners for the custody of the Great Seal of the United Kingdom for the time being;

And the expression "the Lord Chancellor intrusted as aforesaid" shall be construed to mean the Lord High Chancellor of *Great Britain* for the time being intrusted by virtue of the Queen's sign-manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind; and when and so long as the Lords Justices of the Court of Appeal in Chancery for the time being shall be intrusted as aforesaid concurrently with the Lord Chancellor, then and so long the last-mentioned expression shall be construed to include or be applicable to the Lords Justices aforesaid, so that all the powers, authorities, and duties to be had, exercised, and performed under this Act by the Lord Chancellor intrusted as aforesaid, shall and may be had, exercised, and per-

formed as well by the Lord Chancellor acting either alone or jointly with both or either of the Lords Justices aforesaid, as by both the Lords Justices aforesaid acting jointly, (*k*) apart from the Lord Chancellor;

And the expression "the Lords Justices" shall be construed to mean the Lords Justices aforesaid for the time being, or one of them;

And the expression "the Lord Chancellor of *Ireland*" shall be construed to comprehend the Lord Keeper or Lords Commissioners for the custody of the Great Seal of *Ireland* for the time being;

And the expression "the Masters" shall be construed to mean the Masters in Lunacy for the time being, jointly and severally;

And the expression "the Registrar" shall be construed to mean the Registrar in Lunacy for the time being;

And the word "commission" shall be construed to mean a commission in the nature of a writ de lunatico inquirendo, and to comprehend the general commission by this Act authorised to be issued;

And the word "land" shall be construed to comprehend any manor, messuage, tenement, hereditament, or real property of whatsoever tenure, and also property of every description transferable otherwise than in books kept by any company or society, or any share thereof or charge thereon, or estate or interest therein;

And the word "stock" shall be construed to comprehend any fund, annuity, or security transferable in books kept by any company or society, or any money payable for the discharge or redemption thereof, or any share or interest therein;

(*k*) *Re* Burton, 18 L. T. 85.—The 30 & 31 Vict. c. 87, s. 13 (passed 12th August, 1867), enacts as follows:—

"All the jurisdiction, powers, authorities, and duties of the Lords Justices of the Court of Appeal in Chancery under the Lunacy Regulation Act, 1853, or under any other Act, as being intrusted, by virtue of the Queen's sign manual, with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, may be exercised and performed not only by both of the Lords Justices jointly acting or sitting together, but also by either of them alone acting or sitting separately."

And the word "dividends" shall be construed to comprehend interest or other annual produce;

And the provisions relating to "the Bank of England" shall be construed to extend and be applicable to the East India Company, the South Sea Company, and every other company or society established or to be established;

And the word "conveyance" shall be construed to comprehend any release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making and perfecting the same;

And the word "transfer" shall be construed to comprehend any assignment, payment, or other disposition;

And the word "lunatic" shall be construed to mean any person found, by inquisition, idiot, lunatic, or of unsound mind, and incapable of managing himself or his affairs;

And the expression "next of kin" shall be construed to refer to the next of kin of a lunatic, and to comprehend his heir or heirs-at-law, and also the person or persons who would be entitled to his estate, or to shares thereof, under the statutes for the distribution of the effects of intestates, in case he were dead intestate;

And the word "person" or "party" shall be construed to comprehend a body corporate.

Schedules Parts of Act.

III. The schedules hereunder written shall be deemed to be parts of this Act.

Extent of Act.

IV. This Act shall extend to *England* (*l*) and *Wales*, and to *Ireland*, where the same is specifically mentioned.

Commencement and Short Title of Act.

V. This Act shall take effect from the 28th day of Octo-

(*l*) As to the abolition of the jurisdiction of the Court of Chancery of the County Palatine of Lancaster, in cases of lunacy, see 13 & 14 Vict. c. 43, s. 23, passed in 1850.

ber, 1853, and may be cited as "The Lunacy Regulation Act, 1853."

OFFICERS.

And with respect to the several Officers in Lunacy, be it further enacted as follows:

Power to Lord Chancellor to appoint Two Masters in Lunacy, who, before acting, shall take Oath in the Second Schedule.

VI. There shall be two Masters in Lunacy, who shall hold their offices during good behaviour, and the present Masters in Lunacy shall be continued and be the Masters in Lunacy during good behaviour, and the Lord Chancellor shall, from time to time as any vacancy shall occur in the office of Master in Lunacy, appoint a fit person, being a serjeant or barrister-at-law of not less than ten years' standing at the bar, to fill the vacancy; and the person to be so appointed shall, before being capable of acting as Master in Lunacy, take before the Lord Chancellor, in the manner now used, the oath set forth in the second schedule hereunder written, and the Masters in Lunacy for the time being shall have the same rank and precedence as the present Masters now take. (*m*)

Masters to have Powers of Commissioners.

VII. The Masters in Lunacy shall have, perform, and execute all the powers, duties, and authorities which were at the time of the passing of the Act of the session of Parliament holden in the fifth and sixth years of the reign of Her Majesty, chapter eighty-four, had, performed, and executed by Commissioners named in commissions in the nature of writs de lunatico inquirendo.

All References connected with Lunatics to be made to Masters.

VIII. All the inquiries and matters connected with the persons and estates of lunatics which were at the time of the passing of the last-mentioned Act of Parliament usually referred to the Masters in Ordinary of the High Court of Chancery (except inquiries in matters which may be or might

(*m*) See 8 & 9 Vict. c. 100, s. 2, *post.*

have been referred under the Trustee Act, 1850, (*n*) or any Act thereby repealed), shall henceforth, where references shall be made, be referred to the Masters in Lunacy, who shall have, perform and execute all the powers, duties, and authorities relating to the inquiries and matters so to be referred to them as aforesaid which were at the time last aforesaid had, performed, and executed by the Masters in Ordinary of the High Court of Chancery, and shall perform such other duties for the security and advantage of lunatics and their estates as the Lord Chancellor intrusted as aforesaid shall from time to time direct.

Masters to perform Duties under Regulations of the Lord Chancellor.

IX. All the powers and authorities by or under this Act vested or to be vested in the Masters shall be joint and several, and they shall execute commissions and conduct inquiries connected with lunatics or their estates, (*o*) and perform all other duties committed or to be committed to them by or by virtue of any Act hereby repealed or this Act, either separately or together, and at such places, within such times, and in such manner as any general order in lunacy, and, subject thereto, as any special order of the Lord Chancellor intrusted as aforesaid, shall from time to time direct.

Registrar to perform Duties under Regulations of Lord Chancellor.

X. The Lord Chancellor shall have, as at present, an officer called "the Registrar in Lunacy," who shall perform the duties committed to him by or by virtue of this Act, and such other duties connected with lunatics and their estates, at such places, within such times, and in such manner, as the Lord Chancellor shall from time to time direct. (*p*)

Duties of Clerk of the Custodies to be performed by Masters and Registrar.

XI. The Masters and the Registrar respectively shall con-

(*n*) 13 & 14 Vict. c. 60, see *post*, p. 137.
(*o*) *Re* Skingley, 3 M. & Gor. 231; *re* Brown, 1 M. & Gor. 207.
(*p*) See also 25 & 26 Vict. c. 86, ss. 28, 29, *post*.

tinue to discharge all duties which formerly belonged to the office of clerk of the custodies of idiots and lunatics, and which were under the provisions of the Act of the session of Parliament holden in the fifth and sixth years of the reign of Her Majesty, chapter eighty-four, (*q*) on the abolition of that office, transferred to them respectively, so far as the same may be necessary to be discharged, according to the practice for the time being subsisting in lunacy.

As to the Masters' Salaries and Retiring Annuities.

XII. The Masters shall receive salaries of two thousand pounds per annum each; and the Lord Chancellor may, on a petition presented to him for that purpose, order (if he shall so think fit) annuities, not exceeding the sum of one thousand two hundred pounds each, to be paid to the persons continued and to be appointed Masters respectively, if and when they respectively shall be afflicted with some permanent infirmity disabling them respectively from the due execution of their respective offices, and shall be desirous of resigning the same. (*r*)

Power to Lord Chancellor to remove and grant Annuities to future Masters, if afflicted with Infirmity.

XIII. The Lord Chancellor may by order remove any one of the Masters in Lunacy to be appointed after the commencement of this Act, who shall be afflicted with any permanent infirmity disabling him from the due execution of his office, and who shall refuse to resign, or be incapable of resigning the same, and may, upon such removal, order to be paid to him an annuity or retiring allowance not exceeding in amount two equal third parts of his yearly salary. (*s*)

Salary of Registrar.

XIV. The Registrar shall receive such salary as the Lord

(*q*) 5 & 6 Vict. c. 84, s. 10, not repealed; see Schedule I., *post*. As to the change of names—Masters for Commissioners, see 8 & 9 Vict. c. 100, s. 2, *post;* and Registrar for Secretary, 15 & 16 Vict. c. 87, s. 30, now repealed, see Schedule I., *post*.

(*r*) See also 25 & 26 Vict. c. 86, s. 26, *post*.

(*s*) See also 25 & 26 Vict. c. 86, s. 26, *post*, and 29 & 30 Vict. c. 68, s. 8.

Chancellor, with the approbation of the Commissioners of Her Majesty's Treasury, has directed or shall from time to time direct.

Number and Salaries of the Clerks of the Masters and the Registrar.

XV. Such officers, clerks, and messengers, shall and may be from time to time appointed by the Masters and the Registrar respectively, in their respective offices, as the Lord Chancellor, with the approbation of the Lords Commissioners of Her Majesty's Treasury, has directed or shall from time to time direct, but the appointment of the chief clerk of the Masters shall be made with the approbation of the Lord Chancellor; and the present officers, clerks, and messengers, shall be continued as if this Act had not been passed, and without prejudice to any right or claim of them or any of them in respect of length of service or otherwise; (*t*) and the officers, clerks, and messengers, for the time being shall respectively receive such salaries as the Lord Chancellor, with the approbation of the said Commissioners of the Treasury, has directed or shall from time to time direct. (*u*)

Power to Lord Chancellor to appoint Visitors.

XVI. There shall be two medical visitors and one legal visitor of lunatics, who shall hold their offices during pleasure; (*v*) and the present visitors shall be continued and be the visitors during pleasure; (*w*) and the Lord Chancellor shall from time to time, as any vacancy shall occur in the office of medical visitor or legal visitor, appoint, by writing under his hand, a fit person, being a physician in actual practice, to succeed a medical visitor; and a fit person, being a barrister of not less than five years' standing, to succeed a legal visitor.

Masters to be ex-officio Visitors.

XVII. The Masters for the time being shall, by virtue of

(*t*) 25 & 26 Vict. c. 86, s. 26, *post*.
(*u*) See also 15 & 16 Vict. c. 87, ss. 46, 47; and 29 & 30 Vict. c. 68, s. 7.
(*v*) 25 & 26 Vict. c. 86, s. 24, *post*.
(*w*) 25 & 26 Vict. c. 86, s. 23, *post*.

their appointments to be Masters, become and be visitors of lunatics jointly with the visitors for the time being.

Visitors not to be interested in Houses for reception of Insane Persons.

XVIII. No person shall be appointed to be a visitor who shall be or shall have been within the two years then next preceding directly or indirectly interested in the keeping of any house licenced for the reception of insane persons; and if any person shall after his appointment become so interested, his appointment as visitor shall *ipso facto* become null and void, and thereupon his salary shall cease.

Salaries of Visitors.

XIX. The medical visitors shall receive such salaries, not exceeding the sum of five hundred pounds per annum each, (*x*) and the legal visitor to be appointed after the commencement of this Act shall receive such salary, not exceeding the like sum, as the Lord Chancellor, with the approbation of the said Commissioners of the Treasury, shall from time to time order; and the salary of the present legal visitor shall remain at its present amount. (*x*)

The Visitors and Masters to form a Board.

XX. The medical and legal visitors and the Masters, or so many of them, not being less than three in number, as may from time to time be able, consistently with the discharge of their other duties, to attend, shall from time to time form themselves into a Board for their mutual guidance and direction on matters connected with the visiting of lunatics; and the Board shall be at liberty to report to the Lord Chancellor intrusted as aforesaid upon any matter connected with the duties of the visitors or of the Board, as they think proper. (*y*)

Medical or Legal Visitor may appoint a Substitute during his Illness, etc.

XXI. Where a medical or a legal visitor is temporarily

(*x*) 25 & 26 Vict. c. 86, ss. 23, 24, *post.*
(*y*) ss. 104–107, *post*, and 25 & 26 Vict. c. 86, ss. 19-22, *post.*

prevented from discharging his duty by illness or unavoidable absence, but not otherwise, he may, with the approbation of the Lord Chancellor intrusted as aforesaid, appoint a physician in actual practice, or a barrister of not less than five years' standing (as the case may require), (*z*) to act in his stead during his illness or unavoidable absence; and the physician or the barrister so appointed shall, while his appointment remains in force, have, perform, and execute all the powers, duties, and authorities belonging to the office of medical visitor or of legal visitor (as the case may be) with full validity and effect to all intents and purposes.

Lord Chancellor to appoint a Secretary to Visitors.

[XXII. *There shall be a secretary to the visitors, who shall hold his office during pleasure; and the present secretary shall be continued, and be the secretary during pleasure; and the Lord Chancellor shall, from time to time as a vacancy shall occur in the office of secretary, appoint, by writing under his hand, a fit person to fill the vacancy.* (*a*)]

The Salary of the Secretary and his Clerk.

[XXIII. *The secretary shall receive such salary, not exceeding the sum of three hundred pounds per annum, as the Lord Chancellor has ordered or shall from time to time order;* (*a*) *and a clerk to the secretary may be appointed by him, with the approbation of the Lord Chancellor, who shall receive such salary, not exceeding the sum of one hundred and fifty pounds per annum, as the Lord Chancellor shall from time to time order.* (*b*)]

Masters, Visitors, etc., to be allowed travelling and other expenses.

XXIV. Such allowances as the Lord Chancellor, with the

(*z*) See s. 16, *ante*.

(*a*) The Supreme Court of Judicature Act, 38 & 39 Vict. c. 77, passed 11th August, 1875, enacts, in section 31, that after the passing of that Act there shall cease to be a secretary to the visitors of lunatics, and that the Treasury shall award compensation to the person then holding the office.

(*b*) Repealed by 25 & 26 Vict. c. 86, s. 25, *post*.

approbation of the said Commissioners of the Treasury, shall from time to time order, shall be made to the Masters and Visitors for their respective travelling and other expenses, and to the Masters and the Registrar, [*and the Secretary to the Visitors, (but in the latter case under the direction of the Visitors,)* (*c*)] for providing and maintaining suitable offices, and for the other expenses incident to the discharge of the duties of their respective offices.

Salaries, &c., to be paid Quarterly out of Suitors' Fee Fund.

XXV. [Repealed by 32 & 33 Vict. c. 91, s. 34, and other provisions made by sec. 13 of that Act.] (*d*)

PER-CENTAGE AND FEES.

And whereas it would greatly facilitate the simplification and improvement of the practice in lunacy, and would be attended with convenience, and with a saving of expense to the estates of lunatics, that the charges incident to the administration of the estates of lunatics under the authority of the Lord Chancellor should be defrayed in part by means of a per-centage, graduated in an equitable manner as between the richer and poorer estates, and in part by means of fees on proceedings: be it therefore enacted as follows:

Per-centage on clear Incomes to be paid according to the Scale herein specified.

XXVI. A per-centage on the respective clear annual incomes of all lunatics (*e*) shall be paid according to the several rates following; (*f*) that is to say:

(*c*) See note (*a*) to ss. 22, 23, *ante*.

(*d*) By section 25, now repealed as above stated, the salaries, annuities, and allowances under this Act were made chargeable on the "Suitors' Fee Fund"; but under the provisions of the "Courts of Justice (Salaries and Funds) Act, 1869," 32 & 33 Vict. c. 91, that fund was transferred to the National Debt Commissioners (s. 4), and it was enacted (s. 13) that the following charges (Third Schedule, Part II.) should thenceforth be payable out of moneys provided by Parliament—viz., salaries and expenses and contingencies of office of the Masters in Lunacy and their clerks, of the Registrar in Lunacy and clerks, and of the Visitors of Lunatics, and secretary and clerks to visitors.

(*e*) See Interpretation clause, s. 2, *ante*.

(*f*) See Introduction, *ante*, p. 18, and s. 32, *post*.

The rate of four per centum for each clear annual income amounting to one hundred pounds and not amounting to one thousand pounds, but so that no larger sum be payable in any such case in any one year than thirty pounds.

The rate of three per centum for each clear annual income amounting to one thousand pounds and not amounting to five thousand pounds, but so that no larger sum be payable in any such case in any one year than one hundred pounds; and

The rate of two per centum for each clear annual income amounting to five thousand pounds or upwards, but so that no larger sum be payable in any such case in any one year than two hundred pounds:

And in every case the fractional parts less than one moiety of the pound sterling shall be disregarded in the calculation of the amount payable for per-centage, and shall not be levied or paid.

Master to certify amount, &c., which shall be paid out of the Income of the Lunatic.

XXVII. The Masters shall from time to time certify what is the amount of each such clear annual income as aforesaid, and of the per-centage payable thereon, and who is the committee or other person who is to pay the same, and thereupon such committee or other person as aforesaid shall pay the same out of the first monies coming to his hands in respect of the income of the lunatic.

Per-centage to be paid notwithstanding Death, &c., before Payment.

XXVIII. The per-centage aforesaid, or a proper proportionate part thereof (as the case may require), shall be chargeable and charged upon the estate of a lunatic, and be payable thereout, although before payment thereof he die, or the inquisition in his case be superseded, or be vacated and discharged on a traverse; but in either of the two cases last aforesaid the Lord Chancellor intrusted as aforesaid may, if he see fit, remit or reduce the amount of the sum to be paid; and the payment of the amount in every case shall be enforced in such manner and under such regulations as the

Lord Chancellor, with the advice and assistance of the Lords Justices, being intrusted as aforesaid, shall from time to time direct.

Present Fees abolished, and new Fees substituted.

XXIX. All fees now payable in relation to proceedings in lunacy shall be and the same are hereby abolished, and in lieu thereof there shall be paid the following fees only; that is to say,—

	£	s.	d.
For each order or fiat of the Lord Chancellor intrusted as aforesaid	2	0	0
For each report or certificate of the Masters and taxing Masters respectively (other than a certificate of the Masters respecting income and per-centage only)	1	0	0
For attending any court by the clerk per diem	1	0	0

And for all engrossments, transcripts, and copies of documents and papers, the actual amount of the stationer's charges paid by the Masters and Registrar respectively for the same.

XXX. [Repealed by 32 & 33 Vict. c. 91, s. 34, and other provision made by s. 16.] (*g*)

XXXI. [Repealed by 32 & 33 Vict. c. 91, s. 34, and other provision made by s. 19.] (*h*)

Power to exempt small Properties.

XXXII. Where it is made to appear to the Lord Chancellor intrusted as aforesaid that the net amount or net estimated value of the property of a lunatic does not exceed the sum of seven hundred pounds sterling in respect of the corpus thereof, or the sum of fifty pounds sterling per annum in respect of the income thereof, he may order (if he shall think fit) that no fee shall be taken or paid, or per-centage be levied or paid, (*i*) in relation to the proceedings in the matter or the property, as from the date of the order or such other time as he shall direct, during the continuance of the lunacy or until further order.

(*g*) But now see the Supreme Court of Judicature Act, 1875, 38 & 39 Vict. c. 77, s. 26.

(*h*) See note to s. 30, *ante*.

(*i*) See, however, the terms of s. 26, *ante*, which do not apply to any income below £100 a year.

Provisions respecting Per-centage and Fees to apply to cases under 8 & 9 *Vict. c.* 100, *and to certain Cases where Lunatic is out of Jurisdiction.*

XXXIII. All the foregoing provisions respecting fees and per-centage shall be applicable to the proceedings in the matter of and to the property of a lunatic under the protection of the Lord Chancellor intrusted as aforesaid by virtue of proceedings taken under the provisions of the Act of the session of Parliament holden in the eighth and ninth years of the reign of Her Majesty, chapter one hundred, section ninety-five, (*j*) and also to the proceedings in the matter of and to the property of a lunatic under the protection of the Lord Chancellor intrusted as aforesaid by virtue of the transmission of the record of an inquisition from *Ireland*, and its entry of record in the Chancery of *England*, (*k*) and also to the proceedings in the matter of and to the property of a person residing out of *England* and *Wales*, and declared idiot, lunatic, or of unsound mind according to the laws of the place where he is residing, where the Lord Chancellor intrusted as aforesaid makes an order affecting the stock or any portion of the capital stock or shares of such person as last aforesaid, or the dividends thereof, (*l*) and the aforesaid provisions shall be applied to the several classes of cases mentioned in this present section in such manner and under such regulations as the Lord Chancellor shall, with the advice and assistance aforesaid, (*m*) from time to time order, but so that no per-centage be levied or paid in either of the two last-mentioned cases except in respect of income arising from property being within the jurisdiction of the Lord Chancellor intrusted as aforesaid, and being administered by him or under his authority and direction.

Recital of 3 & 4 *W. IV. c.* 36, *imposing a Per-centage for Visitors of Lunatics.*

And whereas the per-centage which is now, under the pro-

(*j*) 8 & 9 Vict. c. 100, s. 95–98, *post;* but see also 16 & 17 Vict. c. 70, s. 53, *post.*

(*k*) See s. 52, *post.*

(*l*) See s. 141, *post*, and s. 85, *post.*

(*m*) *i.e.*, of the Lords Justices; see s. 28, *ante.*

visions of the Act passed in the session of Parliament holden in the third and fourth years of the reign of King William the Fourth, chapter thirty-six, (*n*) imposed upon the estates of lunatics, and paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to an account entitled "The Account of the Board of Visitors for the better care and treatment of Lunatics," will be discontinued under this Act: be it therefore further enacted as follows: (*o*)

XXXIV. [*Sums due for this per-centage to be paid.*]

XXXV. [*Salaries, etc., charged on this per-centage to continue payable thereout for a limited time.*]

XXXVI. [*Account to be closed, and balance carried to Suitors Fee Fund.*]

XXXVII. [*Account to be audited.*]

INQUISITION.

And with respect to the inquisition, be it further enacted as follows:

Commissions may be directed to fewer than Three Persons, and shall be directed to Masters.

XXXVIII. Any commission in the nature of a writ de lunatico inquirendo directed to one person or to two persons, and the inquisition returned thereon, shall be as valid and effectual to all intents and purposes as if directed to and returned by more than two persons; and every commission shall (subject to the provision hereinafter contained) (*p*) be directed to the Masters, or one of them, and may be varied in form from that now in use in such manner as to the Lord Chancellor may seem necessary or expedient.

General Commission may be issued directed to Masters.

XXXIX. In lieu of the commission now issued specially in each case of alleged lunacy, a general commission to the like effect, with such variations as may be necessary or expedient, may from time to time be issued in duplicate under

(*n*) Repealed by the present Act, see Schedule 1, *post*.

(*o*) The four following sections were temporary provisions, relating to the winding up of the account referred to.

(*p*) See s. 39, *post*, and also s. 50, *post*.

the Great Seal, directed to the Masters by name, jointly and severally, who shall by virtue thereof proceed, in each case of alleged lunacy concerning which the Lord Chancellor intrusted as aforesaid shall order them to inquire, (*q*) in like manner and with all the like powers and authorities (subject to the provisions hereinafter contained) as if a commission had issued specially in such case, and every inquisition found and returned thereon shall be as valid and effectual to all intents and purposes as if the same had been found and returned on a separate commission. (*r*)

Alleged Lunatic, within Jurisdiction, to have Notice, and may demand an Inquiry before a Jury.

XL. Where the alleged lunatic is within the jurisdiction, (*s*) he shall have notice of the presentation of the petition for inquiry, and may, by a notice, signed by him, and attested by his solicitor, and filed with the Registrar, either before the presentation of the petition or within seven days after such notice had by him as aforesaid, or at or within such other time as the Lord Chancellor intrusted as aforesaid shall order in the particular case, demand an inquiry before a jury. (*t*)

Where alleged Lunatic demands a Jury, Lord Chancellor may examine him as to competency, and order a Jury.

XLI. Where the alleged lunatic demands an inquiry before a jury, the Lord Chancellor intrusted as aforesaid shall in his order for inquiry direct the return of a jury, unless he be satisfied, by personal examination of the alleged lunatic, (*u*) that he is not mentally competent to form and express a wish for an inquiry before a jury; and the Lord Chancellor intrusted as aforesaid may, where he shall deem it necessary,

(*q*) *Qu.* Whether an appeal against such an order can be made to the Privy Council? See *in re* Windham, 31 L. J. R. (N.S.) ch. 724.
(*r*) See also s. 50, *post*; *re* Hobbyn, *ex parte* Peter, 29 L. T. ch. 305.
(*s*) See also s. 45, *post*.
(*t*) 25 & 26 Vict. c. 86, ss. 8, 9, *post*.
(*u*) As to examination of alleged lunatic before ordering inquiry, see *in re* Windham, 31 L. J. R. (N.S.) ch. 723. See also 25 & 26 Vict. c. 96, s. 6, *post*.

after presentation of the petition for inquiry, and for the purpose of personal examination, require the alleged lunatic to attend him at such convenient time and place as he may appoint.

Cases where a Jury may be dispensed with.

XLII. Where the alleged lunatic does not demand an inquiry before a jury, or the Lord Chancellor intrusted as aforesaid is satisfied by personal examination of him that he is not mentally competent to form and express a wish in that behalf, and it appears to the Lord Chancellor intrusted as aforesaid, upon consideration of the evidence adduced before him on the petition for inquiry, and of the circumstances of the case, so far as they are before him, to be unnecessary or inexpedient that the inquiry should be before a jury, and he accordingly does not in his order for inquiry direct the return of a jury, then the Masters shall, by virtue of their general commission, and under such order for inquiry, but without a jury, personally examine the alleged lunatic, and take such evidence, upon oath or otherwise, and call for such information as they may think fit, or the Lord Chancellor intrusted as aforesaid may direct, in order to ascertain whether or not the alleged lunatic is of unsound mind, and shall certify their finding thereon.

Jury to be had, if Masters certify that it is expedient.

XLIII. Where the Lord Chancellor intrusted as aforesaid, under such circumstances as hereinbefore mentioned, does not in his order for inquiry direct the return of a jury, but the Masters acting under the commission, upon consideration of the evidence before them, certify to him that in their opinion an inquiry before a jury is expedient, they shall, without further order, issue their precept to the sheriff, and shall proceed in like manner in all respects, and their proceedings shall be as valid and effectual, to all intents and purposes, as if the Lord Chancellor intrusted as aforesaid, had directed the return of a jury in the first instance.

Certificates of Masters without a Jury to be deemed an Inquisition.

XLIV. Where the Masters certify that the alleged lunatic

is of unsound mind and incapable of managing himself or his affairs, or that he is of unsound mind and incapable of managing himself or his affairs, and has been so from a time past, or, on the contrary, certify that the alleged lunatic is of sound mind and capable of managing himself and his affairs, the certificate shall be and be deemed to be an inquisition, and be of the same force and effect, to all intents and purposes, and be returned, filed, and proceeded on in the same manner in all respects as an inquisition taken upon the oath of a jury.

Jury to be had if Lunatic out of Jurisdiction.

XLV. Where the alleged lunatic is not within the jurisdiction, (*v*) the inquiry shall be before a jury, and no further or other notice shall be necessary to be given to him than he would have been entitled to receive if this Act had not been passed. (*w*)

Lord Chancellor may regulate number of Jury.

XLVI. The Lord Chancellor may from time to time, by order, regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury be found by the oaths of twelve men, at the least. (*x*)

Inquiry not to be carried back, except under special order.

XLVII. The inquiry, whether with or without a jury, shall as far as relates to the state of mind of the alleged lunatic, be confined to the question whether or not the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, at the time of the inquiry, except where the Lord Chancellor intrusted as aforesaid, under special circumstances, shall direct that there be also an inquiry from what time the alleged lunatic has been of unsound mind, and incapable of managing himself or his affairs, or shall direct that there be also an inquiry whether or not the alleged lunatic was of unsound mind, and incapable of managing himself

(*v*) See also s. 40, *ante*.
(*w*) *Ex parte* Cranmer, 12 Ves. 485.
(*x*) See *in re* Windham, 31 L. J. R. (N.S.) ch. 721.

and his affairs, at a previous time specified, and thenceforth down to the time of the inquiry. (*y*)

Commissioner, with Jury, to have powers of Judge of Court of Record.

XLVIII. The person executing an inquiry with a jury shall, while so employed, have all the like powers, authorities and discretion, as a Judge of a Court of Record. (*z*)

The foregoing Provisions prospective only.

XLIX. The foregoing provisions "with respect to the inquisition" shall apply only where the petition for inquiry is presented after the commencement of this Act; and every petition for inquiry theretofore presented, and on which an order has not then been made, shall, with respect to the inquisition, be proceeded on as if this Act had not been passed.

Nothing to preclude the Lord Chancellor from issuing a Special Commission.

L. Nothing in this Act contained (*a*) shall be taken to preclude the Lord Chancellor from issuing a commission specially in any case of alleged lunacy, or from issuing a commission directed to any fit person or persons, in addition to the Masters, or one of them, if he shall upon any occasion deem it proper to do so; and the foregoing provisions shall be deemed to extend to every commission so issued

(*y*) 25 & 26 Vict. c. 86, s. 3, *post;* and see *Ex parte* Smith, 1 Swanst. 6, in which Lord Eldon, C., remarked: "The reason of the inquiry from what period the lunacy commenced is this,—that when it appeared that the lunacy was of some duration, and that the lunatic had performed acts, the principle on which the Crown extended its protection required that an examination should be instituted into the circumstances of competence or incompetence under which those acts were performed." The original distinction in law between idiocy and lunacy rendered it necessary to ascertain whether or not the insanity existed from birth (Introduction, *ante*, pp. 9–12); but in cases of lunacy, strictly so called, it was deemed to be further necessary to ascertain the date of its commencement, as affecting the validity of acts performed by the lunatic.

(*z*) *Re* Langham, 1 Jur. 375.

(*a*) See ss. 38 and 39, *ante.*

specially, or so directed as aforesaid, so far as they may be applicable.

Reference in other Acts to Commission shall apply to general Commission hereby authorized to be issued.

LI. Where in any Act of Parliament, order or rule of Court, or instrument whatsoever, reference is made to a commission in the nature of a writ de lunatico inquirendo, or the inquisition thereon, the general commission hereby authorised to be issued, (*b*) and such inquisition, or certificate operating as an inquisition, (*c*) as is hereby authorised to be made and returned, shall be deemed to be intended by or comprehended in the reference. (*d*)

Inquisition and Supersedeas may be transmitted from and to Ireland and England, and be acted upon there respectively.

LII. Where it is desired that an inquisition taken on a commission issued under, or a writ of supersedeas thereof issued under, the Great Seal of the United Kingdom or under the Great Seal of Ireland respectively, should be acted upon in Ireland or in England respectively, the proper officer may, under order of the Lord Chancellor of Great Britain, or the Lord Chancellor of Ireland, as the case may be, transmit a transcript of the record of the inquisition, or of the writ, to the Chancery of Ireland or of England, as the case may be, which transcript shall thereupon be entered and be of record there respectively, and shall, when so entered of record, and if and so long only as the Lord Chancellor of Ireland intrusted as aforesaid, and the Lord Chancellor of Great Britain intrusted as aforesaid, as the case may be, shall see fit, be acted upon by them respectively, and be of the same validity and effect, to all intents and purposes, as if the inquisition had been taken on a commission issued under, or the writ of supersedeas had been issued under, the Great Seal of Ireland or of the United Kingdom respectively. (*e*)

(*b*) See s. 39, *ante*
(*c*) See s. 42, *ante*, and s. 44, *ante*.
(*d*) 25 & 26 Vict. c. 86, s. 5, *post*.
(*e*) See s. 33, *ante*.

And whereas proceedings under commission confer larger and more effectual powers for the due protection, care, and management of the persons and estates of persons of unsound mind than proceedings under the Act of the session of Parliament holden in the eighth and ninth years of the reign of Her Majesty, chapter one hundred, sections ninety-four to ninety-eight (both inclusive), (*f*) and the expenses of proceedings under commission will be much diminished by this Act: Be it therefore further enacted as follows:

Proceedings under 8 & 9 *Vict. c.* 100, *to be discontinued.*

LIII. It shall not be lawful for the Lord Chancellor intrusted as aforesaid to direct that one of the Masters shall make such examination as by the ninety-fifth section of the last-mentioned Act is authorised in any case in which a petition or a report upon which such direction of the Lord Chancellor intrusted as aforesaid might be founded shall not have been presented or made before the commencement of this Act.

Inquiry may be ordered on Report of Commissioners.

LIV. Where the Commissioners in Lunacy for the time being shall after the commencement of this Act, by virtue of any authority for the time being enabling them in that behalf, (*g*) report to the Lord Chancellor intrusted as aforesaid that they are of opinion that the property of any person alleged to be a lunatic, or detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income thereof is not duly applied for his benefit, or to the same effect, the report shall be filed with the Registrar, and shall be deemed and taken to be tantamount to an ordinary petition for inquiry supported by evidence, and the alleged lunatic shall have notice of the report from such person as the Lord Chancellor intrusted as aforesaid shall from time to time direct, and the case shall proceed and be conducted as nearly as may be in all respects as is hereinbefore directed upon the presentation of a petition for inquiry.

(*f*) See *post.*
(*g*) See 8 & 9 Vict. c. 100, s. 94, *post.*

PROCEEDINGS AFTER INQUISITION.

And with respect to certain of the proceedings after inquisition, be it further enacted as follows:—

Evidence may be oral, &c.

LV. The Masters may direct that the evidence in the matter of a lunatic or on any particular proceedings in the matter be taken orally, or partly orally and partly by affidavit, and it shall be so taken accordingly. (*h*)

Masters may administer Oaths and take Recognisances.

LVI. The Masters may, in the matter of a lunatic or alleged lunatic, administer an oath to any witness, whether his deposition or affidavit is to be used before themselves or not, and recognizances may be taken and acknowledged before them. (*h*)

Swearing of Affidavits in the Colonies, etc.

LVII. The provisions of the Act of the last session of Parliament, chapter eighty-six, sections twenty-two, twenty-three, and twenty-four, (*i*) respecting affidavits made in

(*h*) 25 & 26 Vict. c. 86, s. 18, *post.*

(*i*) These provisions are as follows: 15 & 16 Vict. c. 86:—

"XXII. All pleas, answers, disclaimers, examinations, affidavits, declarations, affirmations, and attestations of honour in causes or matters depending in the High Court of Chancery, and also acknowledgments required for the purpose of enrolling any deed in the said Court, shall and may be sworn and taken in Scotland or Ireland, or the Channel Islands, or in any colony, island, plantation, or place under the dominion of Her Majesty in foreign parts, before any judge, Court, notary public, or person lawfully authorised to administer oaths in such country, colony, island, plantation, or place respectively, or before any of Her Majesty's consuls or vice-consuls in any foreign parts out of Her Majesty's dominions; and the judges and other officers of the said Court of Chancery shall take judicial notice of the seal or signature, as the case may be, of any such Court, judge, notary public, person, consul, or vice-consul attached, appended, or subscribed to any such pleas, answers, disclaimers, examinations, affidavits, affirmations, attestations of honour, declarations, acknowledgments, or other documents to be used in the said Court.

"XXIII. All persons swearing, declaring, affirming, or attesting before any person authorised by this Act to administer oaths and take declarations, affirmations, or attestations of honour, shall be liable to all such penalties, punishments, and consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein, as if the matter sworn, declared, affirmed, or attested had been sworn,

causes or matters depending in the High Court of Chancery, shall be and the same are hereby extended so as to be applicable, *mutatis mutandis*, to affidavits made in matters in lunacy.

Form of Affidavits.

LVIII. Every affidavit to be used in a matter in lunacy shall be taken and expressed in the first person of the deponent, and shall be divided into paragraphs numbered consecutively, and respectively confined, as nearly as may be, to distinct portions of the subject-matter.

Short Form of Affidavit for verification of Documents as in Schedule 3.

LIX. Where an affidavit is required for verifying all or some of the statements contained in a petition, state of facts, proposal, or other document, the affidavit may be annexed or under written thereto, and may be in the form set forth in the third schedule hereunder written, with such variations as the circumstances may require; and where the aforesaid form is, in the opinion of the Taxing Master, applicable, no further or greater costs of any affidavit shall be allowed on taxation than would be allowed for an affidavit in the aforesaid form.

Witnesses may be Cross-examined orally—How Expenses to be paid.

LX. Every person giving evidence by affidavit (*k*) shall be liable to oral cross-examination by or before the Masters, in

declared, affirmed, or attested before any Court or persons now by law authorised to administer oaths and take declarations, affirmations, or attestations upon honour.

"XXIV. If any person shall forge the signature or the official seal of any such judge, notary public, or other person lawfully authorised to administer oaths under this Act, or shall tender in evidence any plea, answer, disclaimer, examination, affidavit, or other judicial or official document, with a false or counterfeit signature or seal of any such judge, Court, notary public, or other person authorised as aforesaid attached or appended thereto, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall be liable to the same punishment as any offender under an Act passed in the eighth and ninth years of the reign of Her present Majesty, intituled *An Act to facilitate the Admission of Evidence in certain Official and other Documents*."

(*k*) 25 & 26 Vict. c. 86, s. 18, *post*.

the same manner as if the evidence given by him in his affidavit had been given by him orally before the Masters, and after cross-examination may be re-examined orally by or on behalf of the person filing the affidavit; and every person giving evidence by affidavit shall be bound to attend before the Masters, to be so cross-examined and re-examined, upon receiving due and proper notice, and payment or tender of his reasonable expenses, in like manner as if he had been duly served with a writ of subpœna ad testificandum before an Examiner of the High Court of Chancery; and the expenses attending on such cross-examination shall be paid in the first instance by the parties respectively, in like manner as if the witness cross-examined were the witness of the party cross-examining, and shall on taxation be ultimately borne and paid by the estate, or the parties respectively, or one of them, as the Lord Chancellor intrusted as aforesaid shall direct.

Masters may issue Advertisements.

LXI. The Masters shall be at liberty to cause to be issued from time to time such advertisements as may to them seem expedient with reference to the subject-matter of a proposal or inquiry.

Masters to approve of Security to be given by Committee of Estate.

LXII. The Masters shall, instead of Her Majesty's Attorney-General, approve, on behalf of Her Majesty, of the security to be from time to time given by the committee of the estate, under order of the Lord Chancellor intrusted as aforesaid; and the acts of the Masters with respect to the security and to the grant of the custody shall have the same force and effect to all intents and purposes as the acts of Her Majesty's Attorney-General with respect to the same matters now have.

If Her Majesty do not by her Warrant direct grant of Custody to be under Great Seal, Order of Lord Chancellor shall have the same effect.

LXIII. In case Her Majesty shall think fit to authorize the Lord Chancellor intrusted as aforesaid to make orders from time to time for the custody of persons already found or who may hereafter be found idiots or lunatics as aforesaid,

and of their estates, without requiring that any grant or commitment of such custody should be passed under the Great Seal, then any order to be made by the Lord Chancellor intrusted as aforesaid in pursuance of such authority shall (as to the custody of the person immediately, and as to the custody of the estate upon the Master's certificate of completion of the committee's security) have the same force and validity as a grant and commitment of the custody of such idiots or lunatics and their estates would have had in case the same had been made under the Great Seal, by virtue of any authority for that purpose given by Her Majesty to the Lord Chancellor intrusted as aforesaid, and the provisions of this Act representing the grant shall be deemed to extend to any order to be made as aforesaid.

Masters may Authorise Payment or Transfer into Court of Money or Stock as Security for Committee.

LXIV. Where it is desired and the Masters allow that the approved committee of the estate should, in lieu of giving security in the manner now usual by bond or recognizance with sureties, give security, in the whole or in part, by bringing into Court an adequate sum of money or stock, the Masters may by certificate direct or give liberty for the payment into the Bank of England, with the privity of the Accountant-General of the Court of Chancery, to the credit of the matter of the lunatic, of any sum of money, or the transfer into the name and with the privity of the said Accountant-General, in trust in the matter of the lunatic, of any sum of stock, and may specify the account to which the sum of money or stock is to be placed, and may direct how any money is to be invested, or how any dividends are to be applied, and such payment, transfer, investment, and application, as the case may require, shall be made by virtue of such certificate, and the said Accountant-General shall declare the trust of the sum of money or stock when so paid or transferred accordingly, subject to the order of the Lord Chancellor intrusted as aforesaid.

Masters may receive and deliver out Deeds, etc., of Lunatic, and authorise payment or transfer into Court of Money or Stock belonging to Lunatic.

LXV. Where it appears expedient, either with a view to

the reduction of the amount of the security of the committee of the estate, or for any other reason, the Masters may without order receive or deliver out any deed or security belonging to the lunatic, and may by certificate direct or give liberty for the payment into the Bank of England, with the privity of the Accountant-General of the Court of Chancery, to the credit of the matter of the lunatic, of any sum of money belonging to the lunatic, or the transfer into the name and with the privity of the said Accountant-General, in trust in the matter of the lunatic, of any sum of stock belonging to the lunatic, and such payment or transfer, as the case may require, shall be made by virtue of such certificate, and the said Accountant-General shall declare the trust of the sum of money or stock when so paid or transferred accordingly, subject to the order of the Lord Chancellor intrusted as aforesaid.

Grant of Custody may be extended to surviving or continuing Committees in certain Cases.

LXVI. Where the Masters find and report that several persons are the most fit persons to be appointed the committees of the estate or of the person, and they are of opinion that it is expedient that one or more of the same several persons should continue to be the committee or committees after the death or discharge of the others or other of them, and such persons are willing so to continue, the Masters may report accordingly; and where the report is confirmed, the approved committees of the estate may perfect their securities in such form as to extend to the acts and defaults of one or more of them, in accordance with the report, and thereupon the grant of the custody of the estate or of the person (as the case may be) shall be made conformably with the order of custody; and the continuing or surviving committee or committees to whom separately the grant extends shall and may continue until further order to act after the death or discharge of the others or other of them, with all the like powers, authorities, and discretions, and subject to all the like liabilities, as the original committees.

Form of Allowance of Accounts.

LXVII. The Master's allowance of the account of a com-

mittee for (*l*) receiver shall be signified under their hands and be written under the account, but no certificate shall be made, except where it may be specially required with a view to payment of money into Court or for some other purpose. (*m*)

Masters to distinguish Items in Account which they cannot allow, and the Account to be submitted to Lord Chancellor.

LXVIII. Where the Masters are of opinion that any small expenses included in the committee's or receiver's accounts have been properly and reasonably incurred for the benefit or enjoyment of the lunatic, or the improvement, security or advantage of his estate, and there is no opposition to the allowance thereof, but it may not be competent to them to allow the same to the committee or receiver without the sanction of the Lord Chancellor intrusted as aforesaid, they shall distinguish the items by some mark in their allowance of the account, which shall be made subject to the approval of the Lord Chancellor intrusted as aforesaid, and the account as passed by the Masters shall be submitted by them to the Lord Chancellor, without petition, for his allowance or disallowance in respect of the items so distinguished by them.

Masters to receive Proposals in certain Cases.

LXIX. The Masters shall be at liberty, without an order of reference, to receive any proposal and conduct any inquiry respecting the managing, repairing, setting, or letting of the estate, and to report thereon.

Masters may receive Proposals in other Cases.

LXX. The Masters shall also be at liberty, without an order of reference, to receive any proposal and conduct any inquiry relating to the estate, not respecting the managing, repairing, setting or letting thereof, and any proposal or inquiry whatsoever relating to the person, and to report thereon respectively if and when they shall be of opinion that if application were made to the Lord Chancellor intrusted as

(*l*) This should be *or*.
(*m*) Death of lunatic: *in re* Wylde, 23 L. J. R. (N. S.) ch. 464.

aforesaid concerning the matter of any such proposal or inquiry a reference thereon would be made to the Masters.

Persons objecting to Masters receiving Proposal may apply to Lord Chancellor.

LXXI. Where the Masters, without an order of reference, receive any proposal or proceed in any inquiry relating to the estate, not respecting the managing, repairing, setting or letting thereof, or any proposal or inquiry whatsoever respecting the person, any person attending before them shall be at liberty to apply by petition to the Lord Chancellor intrusted as aforesaid, as he may be advised; and thereupon the Masters shall, pending the application, cease from proceeding on the proposal or in the inquiry, unless the Lord Chancellor intrusted as aforesaid otherwise direct.

Masters may certify as to Propriety of Proposal with regard to Costs.

LXXII. Where the Masters, without an order of reference, receive and proceed on a proposal or conduct an inquiry, but arrive at the opinion that the proposal ought not to be adopted and carried into effect, or that the inquiry was unnecessary, they shall be at liberty to certify whether or not, regard being had to the circumstances, the proposal or inquiry was proper to be made; and if they certify in the affirmative, usual and proper costs of the proposal or inquiry and proceedings thereon shall be allowed on taxation by virtue of their certificate, but if they certify in the negative the Lord Chancellor intrusted as aforesaid shall direct by whom and in what manner the costs shall be paid and borne.

Persons insisting on Report liable to Costs.

LXXIII. Where any person requires that the Masters should report on a proposal which they have received and proceeded on without an order of reference, notwithstanding their opinion that it should not be adopted and carried into effect, the Master shall report on the proposal, and the report shall be brought before the Lord Chancellor intrusted as aforesaid by petition, who shall make such order upon the report and respecting the costs as to him shall under the circumstances seem just.

On Application not being made to Masters, Costs may be ordered to be paid.

LXXIV. Where an application is made by petition to the Lord Chancellor intrusted as aforesaid, either concerning a matter which might have been brought before the Masters in the first instance, or in consequence of the Masters receiving any proposal or proceeding in any inquiry relating to the estate or the person, the Lord Chancellor intrusted as aforesaid may make such order respecting the costs of the application and of the consequent proceedings as to him shall under the circumstances seem just.

Masters to inquire as to Next of Kin, and they are to have Notice of Proceedings.

LXXV. Subject to the provisions hereinafter contained, the Masters shall as soon as may be after the return of the inquisition, and may afterwards from time to time as they may think it expedient, inquire and certify who are the next of kin, and, subject to the provisions hereinafter contained, due notice of attending on the proceedings in the matter shall be given to the persons for the time being found to be the next of kin.

No inquiry as to Next of Kin where Property exempted from Fees.

LXXVI. Where the Lord Chancellor intrusted as aforesaid, by virtue of the power hereinbefore given, (*n*) exempts the property of a lunatic from payment of fees and percentage, the Masters shall not during the continuance of the exemption inquire respecting the next of kin, without special order.

Lord Chancellor may dispense with or limit inquiry as to Next of Kin.

LXXVII. The Lord Chancellor intrusted as aforesaid may in any case by order defer an inquiry respecting next of kin, or direct that the inquiry shall be carried on to such limited extent only, and under such restrictions and provisions, and in such manner, as he may under the circumstances of the

(*n*) s. 32, *ante*.

case think expedient, and may, where he deems it just and expedient, order that persons alleging themselves to be next of kin be left to make out their claim at their own expense, and may in any case, if from the smallness of the property of the lunatic (although it be not such as to entitle it to exemption from payment of fees and per-centage) he think it safe and just, by order wholly dispense with the inquiry.

Masters to report where Inquiry as to Next of Kin is inexpedient.

LXXVIII. Where the Masters are of opinion that by reason of the smallness of the property of a lunatic, or for any other reason, an inquiry or a subsequent inquiry (as the case may be) respecting next of kin should be dispensed with or deferred, or be carried on to a limited extent only, they shall report accordingly.

Masters may dispense with strict proof of Pedigree in certain Cases.

LXXIX. Where the Masters, in conducting an inquiry respecting next of kin, without any special direction of the Lord Chancellor intrusted as aforesaid concerning the mode of conducting the same, are of opinion that the circumstances of the case render it expedient and safe that strict proof of pedigree should not be gone into, they may dispense with the same to such extent and in such manner as may to them seem expedient, and may require and receive such evidence as may appear to them sufficient and satisfactory respecting the family and the next of kin, and shall certify the mode in which they have conducted the inquiry.

Lord Chancellor may dispense with Attendance of Next of Kin.

LXXX. The Lord Chancellor intrusted as aforesaid may, by order, dispense with and disallow the attendance on the proceedings in the matter of all or some of the next of kin either wholly, or except at their own expense, or except upon special leave first obtained, as he shall under the circumstances think expedient; and such notice only of attending on the proceedings shall be given as shall be conformable with the order of the Lord Chancellor intrusted as aforesaid.

Masters to determine which of Next of Kin to attend before them, and to certify, and the same only to attend before Lord Chancellor.

LXXXI. Subject to the provisions hereinbefore contained, the Masters shall once in the matter of each lunatic, and may afterwards from time to time as they think it expedient, determine whether any one or more, and if any, how many and which, of the next of kin is or are to attend on the proceedings or on any particular proceeding before them in the matter (but exclusively as at present, of the heir-at-law, with respect to notice of or attendance on the account of the committee of the estate), and the person or persons alone (if any) to whom the Masters have given liberty to attend shall be entitled to notice of or shall be allowed to attend, at the cost of the estate, on any proceeding, or on such particular proceeding as aforesaid (as the case may be), before the Masters, except upon their special leave first obtained; and the same person or persons alone (if any) to whom the Masters have given liberty to attend on the proceedings before them in the matter generally shall be entitled to notice of or shall be allowed to attend, at the cost of the estate, on any proceeding before the Lord Chancellor intrusted as aforesaid, except upon his special leave first obtained; and for that purpose the Masters shall, from time to time as occasion may require, certify who is or are the person or persons (if any) to whom they have given liberty to attend on the proceedings before them in the matter generally.

Masters may appoint Guardian for Lunacy.

LXXXII. Where an infant, being one of the next of kin, and being at liberty to attend on the proceedings, has no guardian, the Masters may from time to time, by certificate, appoint a fit person to be his guardian for the purposes of the lunacy, who shall thereupon, for the purposes of the lunacy only, and not further or otherwise, have all the same powers, authorities, and discretion as if he had been duly constituted guardian by the Court of Chancery; and the Masters may, from time to time, by certificate, revoke any such appointment, and appoint another fit person to be the guardian, *toties quoties*.

In cases of Members of the same Family, Proceedings may be consolidated, and Evidence interchanged.

LXXXIII. The Masters may, where it seems expedient, consolidate or carry on together similar proceedings before them in the matters of several persons being members of the same family, and may in that case, and also where it does not seem expedient that the proceedings should be consolidated or carried on together, use in the matter of one member of a family evidence filed or taken in the matter of another member or other members of the same family, when and so far as it may be applicable.

Masters may open and deliver out Will.

LXXXIV. The Masters may, on being satisfied of a lunatic's death, without order, open and read any paper writing deposited with them, and purporting or alleged to be his will, for the purpose of ascertaining who is therein nominated executor thereof, and also whether or not there is any and what direction therein contained concerning his funeral or place of interment, and then deliver the same to the Registrar or other proper officer of the Prerogative or other proper Ecclesiastical Court, to the intent that the same may be exhibited in the usual course, and dealt with according to law, and shall certify the death, and the opening and delivering out of the paper writing accordingly. (*o*)

Masters may inquire respecting Interest in Stock of Lunatic residing out of Jurisdiction.

LXXXV. The Masters shall be at liberty, without order of reference, to inquire and report whether or not any person residing out of England or Wales, and where, has been declared idiot, lunatic, or of unsound mind, and whether or not his personal estate, or some and what part thereof, has been vested in a curator or other and what person appointed for the management thereof, according to the laws of the place where the person is residing, and whether or not any and what stock, portion of the capital stock, or share of any and what company or society, is standing in the name of or is vested in that person, and what is his interest therein. (*p*)

(*o*) *Re* Townsend, 21 L. J. R. (N.S.) ch. 747.
(*p*) See s. 141, *post*; and s. 33, *ante*.

Masters may direct Times, etc., of proceeding before them.

LXXXVI. Subject to the provisions of this Act, and to the general orders in lunacy for the time being in force, and to any order of the Lord Chancellor intrusted as aforesaid, the Masters may, if they think fit, dispense with any summons ordinarily taken out in the course of the proceedings before them, and direct and require any party attending before them to take out a summons for a particular purpose or within a particular time, and fix the time at which any particular summons shall be returnable before them, or at or within which any proceeding necessary or proper to be taken before them shall be taken, and may proceed *de die in diem* or adjourn the proceedings before them, as they may see fit.

Masters to inquire into Delays.

LXXXVII. The Masters shall from time to time inquire into the circumstances of any delay in the conduct of proceedings before them, or in proceeding upon their reports, certificates, or decisions, and for that purpose may call before them all parties concerned, and may report accordingly, where it seems expedient.

Masters may disallow Costs.

LXXXVIII. The Masters may, by certificate, disallow, wholly or in part, the costs of any proceeding or document taken or used or proposed to be taken or used before them; and the costs of the attendance of counsel before them shall not be allowed on taxation, unless they certify that such attendance was proper, and for the security or advantage of the lunatic or his estate.

Documents not to be of unnecessary Length.

LXXXIX. The affidavits, petitions, and other documents brought in to the offices of the Masters or Registrar shall not contain unnecessary recitals or statements of proceedings or documents previously taken or used in the matter; and the Taxing Masters shall look into all such affidavits, petitions, and other documents as aforesaid, and deal in such manner as to them seems just with the costs of any affidavit, petition, or other document appearing to them to be unnecessary or improper, in the whole or in part, or of unnecessary length.

Masters may report Decision pending Inquiry.

XC. The Masters shall be at liberty to report specially to the Lord Chancellor intrusted as aforesaid any decision at which they may arrive, or any other matter relating to any inquiry or proposal pending before or under consideration by them, in order to obtain a decision or direction by or from him for their guidance in the further prosecution of the inquiry or consideration of the proposal.

Form of Reports.

XCI. The Masters' reports shall be divided into paragraphs numbered consecutively, and respectively confined, as nearly as may be, to distinct portions of the subject-matter, and with such appropriate headings prefixed to all or any of the paragraphs as may be convenient.

Reports to be filed with Registrar in Lunacy only.

XCII. The reports of the Masters, whether confirmed by fiat or not, under the provisions hereinafter contained, (*q*) and their certificates, and all other reports and certificates made in matters in lunacy (except the reports of the Visitors hereinafter provided for), shall be left by the Masters, Taxing Masters, and other officers making the same respectively, with the Registrar in Lunacy, (*r*) by whom the same shall be filed, and it shall not be necessary that they or any of them should be filed elsewhere; and the Accountant-General of the Court of Chancery, and all other persons, and the Governor and Company of the Bank of England, shall, as occasion may require, act upon or in relation to any report, and the fiat thereon (if any), or any certificate so filed, in like manner as if the report or certificate had been filed also in the Report Office of the Court of Chancery, according to the practice formerly used.

Objections to Report may be brought in.

XCIII. Any person objecting to a draft report of the Masters, and desiring to prosecute the objection, shall bring in before the Masters a statement of objections in writing,

(*q*) s. 96, *post.*
(*r*) s. 10, *ante.* *Re* Wood, 9 L. T. (N.S.) ch. 698.

and thereupon the Masters shall be at liberty to review the draft objected to; and after review, or the refusal of the Masters to review, the person objecting may bring in before the Masters a notice in writing, stating that he insists on the objections or any one or more of them; and all the objections not so insisted on shall be considered as abandoned.

No petition against Confirmation, but Objections to be brought forward on petition for Confirmation.

XCIV. No person shall, except upon special leave of the Lord Chancellor intrusted as aforesaid first obtained, present a petition against the confirmation of a report; but in every case, on the hearing of the petition for confirmation of the report, any objections insisted on as aforesaid may be brought forward in opposition to the confirmation of the report, without any exceptions or cross petition.

Reports not objected to may be confirmed without Petition.

XCV. Where no statement of objections is brought in, or all the objections contained in a statement brought in are abandoned, the report shall be submitted to the Lord Chancellor intrusted as aforesaid, for confirmation, without petition, and without the attendance of parties, except where from the special nature or circumstances of the case the Masters are of opinion that the report ought to be brought before the Lord Chancellor intrusted as aforesaid by petition, and by endorsement on the report under their hands shall so direct accordingly.

Such Reports to contain consequential Directions, and Fiat of Lord Chancellor to give them operation of Orders.

XCVI. Where a report is to be submitted for confirmation without petition it shall contain the directions consequential on the confirmation thereof, and the fiat of the Lord Chancellor intrusted as aforesaid on the report shall give it the operation of an order of the Lord Chancellor intrusted as aforesaid, made upon petition, subject to such other directions and provisions (if any) as the Lord Chancellor intrusted as aforesaid may think fit.

Cases in which Reports shall not be confirmed without Petition.

XCVII. The reports of the Masters shall be brought be-

fore the Lord Chancellor intrusted as aforesaid, for confirmation by petition in each of the cases following :—

1. Where the Lord Chancellor intrusted as aforesaid, on referring a matter to the Masters to inquire and report, so directs;
2. Where a statement of objections is brought in, and all the objections are not abandoned; (*s*)
3. Where the Masters, having regard to the special nature or circumstances of the case, as hereinbefore provided, so direct; (*t*)
4. Where no order is made on the report being submitted for confirmation without petition; (*u*)—

And in such other cases as are herein mentioned, and as the Lord Chancellor, with the advice and assistance aforesaid, (*v*) shall from time to time by general order direct.

ORDERS.

And with respect to orders in lunacy, be it further enacted as follows :—

Form of Orders.

XCVIII. Every petition shall be filed before an order thereon shall be passed, and the order shall not recite any part of the statements contained in the petition, and only such part (if any) of the prayer as may be necessary, and an order shall not state any part of a report, except the Masters' conclusion or opinion, or so much thereof as may be necessary; and the Lord Chancellor, with the advice and assistance aforesaid, (*v*) may and shall from time to time make such general orders as to him shall seem meet for embodying (as far as may be) such provisions and directions as are now commonly or frequently inserted in orders, and are not provided for by this Act, and for dispensing (as far as may be) with the formal parts of orders as now drawn up.

Orders to be communicated to Masters.

XCIX. Every order of the Lord Chancellor intrusted as aforesaid in a matter in lunacy shall be communicated by the

(*s*) ss. 93, 94, *ante*.
(*t*) s. 95, *ante*.
(*u*) ss. 95, 96, *ante*.
(*v*) *i.e.*, of the Lords Justices; see s. 28, *ante*.

Registrar (*w*) to the Masters, whether any matter is thereby referred to them or not.

Orders to be entered by the Registrar, and Office Copies to be furnished and signed by him.

C. Every order made in a matter in lunacy by the Lord Chancellor intrusted as aforesaid, when drawn up by the Registrar in Lunacy, (*x*) and signed by the Lord Chancellor intrusted as aforesaid, shall be entered by the Registrar in Lunacy (*x*) in a proper book to be provided by him for that purpose, and he shall furnish office copies of any order or of any report, confirmed by fiat, or of any part thereof respectively signed by him, and sealed or stamped with the seal of his office, to every party in the matter or other person entitled thereto who shall require the same; and every office copy of the whole of an order or report confirmed as aforesaid, purporting to be so signed and sealed or stamped with such seal, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted as evidence of the order or report confirmed as aforesaid of which it purports to be a copy, without any further proof thereof.

Money Orders to be acted upon by Accountant-General as if drawn up by the Registrar of the Court of Chancery—Registrar to certify to Accountant-General.

CI. Where an order or a report confirmed by fiat relates to the payment, transfer, carrying over, or depositing of any cash, stocks, funds, annuities, securities, or other effects, to or into the name of or in the custody of the Accountant-General of the Court of Chancery, (*y*) to the credit of the matter of a lunatic, or to the payment, transfer, and carrying over, or other disposal by the said Accountant-General of any cash, stocks, funds, annuities, securities, or other effects standing in his name or deposited in his custody to the credit of the matter of a lunatic, or of any cash, stocks, funds, annuities, securities, or other effects, to or in which a lunatic

(*w*) *i.e.*, the Registrar in Lunacy; see s. 2, *ante*, and s. 10, *ante*.

(*x*) See s. 10, *ante*.

(*y*) As to the abolition of the office of Accountant-General, and the substitution of the Paymaster-General, see 35 & 36 Vict. c. 44, passed 6th August, 1872.

is entitled or beneficially interested, and which are not standing in trust in a cause or matter depending in the Court of Chancery, the said Accountant-General, and all other persons, and the Governor and Company of the Bank of England, (*z*) shall act upon the order signed by the Lord Chancellor intrusted as aforesaid, after the same has been entered as hereinbefore provided, (*a*) or upon an office copy of the report confirmed by fiat, (*b*) and thence receiving the operation of an order after the same has been filed as hereinbefore provided, (*c*) in the same manner as if an order had been drawn up by the Registrar of the Court of Chancery, and passed and entered in the Court of Chancery according to the practice formerly used; and the Registrar in Lunacy in case of an order, and the Masters in case of a report confirmed by fiat, shall certify under their hands respectively to the said Accountant-General what stocks, funds, annuities, securities, or other effects, are by virtue of any such order or report confirmed as aforesaid (as the case may be) to be sold, transferred, or delivered out, in the same manner as the Registrars of the Court of Chancery were formerly accustomed to do.

Persons forging the Signature or Seal of the Registrar guilty of felony.

CII. If any person shall forge the signature of the Registrar in Lunacy, or shall forge or counterfeit the seal of his office, or knowingly concur in using any such forged or counterfeited signature or seal, or shall tender in evidence any document with a false or counterfeit signature of such Registrar, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall be liable to the same punishment as any offender under an Act of the session of Parliament holden in the eighth and ninth years of the reign of Her Majesty, chapter one hundred and thirteen. (*d*)

(*z*) 25 & 26 Vict. c. 86, s. 29, *post*.
(*a*) See s. 100, *ante*.
(*b*) See s. 96, *ante*.
(*c*) See s. 92, *ante*.
(*d*) 8 & 9 Vict. c. 113, s. 4. See also 14 & 15 Vict. c. 99, s. 17.

These Provisions to apply to Cases under 8 & 9 *Vict. c.* 100, *s.* 95.

CIII. The foregoing provisions "with respect to certain of the proceedings after inquisition," and "with respect to orders," shall be applicable and applied, as far as may be, to the proceedings in the matters of lunatics under the protection of the Lord Chancellor intrusted as aforesaid, by virtue of proceedings taken under the Act of the session of Parliament holden in the eighth and ninth years of the reign of Her Majesty, chapter one hundred, section ninety-five. (*d*)

VISITING.

And with respect to the visiting of lunatics, (*e*) be it further enacted as follows:—

CIV. [Repealed by 25 & 26 Vict. c. 86, s. 22; and other provisions made by s. 20, *post.*]

CV. [Repealed by 25 & 26 Vict. c. 86, s. 22; and other provisions made by s. 19, *post.*]

Visitors to report to Lord Chancellor.

CVI. The visitors shall respectively, within a convenient time after each visit, make a report in writing to the Lord Chancellor intrusted as aforesaid of the state of mind and bodily health and of the general condition, and also of the care and treatment of each person visited and seen by them respectively, which reports shall, annually or oftener, as the Lord Chancellor intrusted as aforesaid may direct or the Board of Visitors may think expedient, be submitted to the Lord Chancellor intrusted as aforesaid; and the visitors respectively shall make separate or special reports on any case to the Lord Chancellor intrusted as aforesaid, as and when they or the Board of Visitors may think expedient, and in particular shall report to him, without delay, any instance in which they respectively, on proceeding to visit, have been unable to discover the then residence of or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit. (*f*)

(*d*) But see s. 53, *ante.*
(*e*) See ss. 16–24, *ante;* and 25 & 26 Vict. c. 86, ss. 19–22, *post.*
(*f*) See also 25 & 26 Vict. c. 86, s. 21, *post.*

Visitors' Reports to be kept secret, and destroyed on Death, etc.

CVII. The reports of the visitors shall be filed and kept secret in their office, and shall be open to the inspection of no person save the members of the Board of Visitors, their secretary and his clerk, (*g*) and the Lord Chancellor intrusted as aforesaid, and such persons as he may specially appoint; and all the reports relating to any particular patient shall be destroyed on the death of the patient, and shall also be destroyed on the inquisition in his case being superseded, or being vacated and discharged on a traverse, unless the Lord Chancellor intrusted as aforesaid, within fourteen days after the supersedeas, or the vacating and discharge on a traverse, specially order that the same be not destroyed until the death.

MANAGEMENT AND ADMINISTRATION OF ESTATE.

And with respect to the management and administration of the estates of lunatics, (*h*) be it further enacted as follows:

Committee to appear and take admittance to Copyholds—In default Lord may appoint Attorney to take admittance.

CVIII. Where a lunatic is entitled to be admitted tenant of copyhold land, the committee of his estate may appear at one of the three next courts holden for the manor (for the

(*g*) 25 & 26 Vict. c. 86, s. 25, *post.*

(*h*) Reference may also be made to the following Acts:—

1 Geo. i. st. 2, c. 10—

Certain portions of which, though repealed by the 11 Geo. iv. and 1 Wm. iv. c. 65, s. 25, are referred to in the 16 & 17 Vict. c. 70, s. 128. [See *post.*] [1714.]

The Act 11 Geo. iv. & 1 Wm. iv. c. 65, is, however, itself repealed by the present Act, so far as regards the insane. [See s. 1, *ante;* and Schedule I, *post.*]

13 & 14 Vict. c. 60 ("Trustee Act, 1850")—

An Act to consolidate and amend the Laws relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees. [5 August, 1850.]

15 & 16 Vict. c. 55—

An Act to extend the Provisions of the Trustee Act, 1850. [See s. 138, *post.*] [30 June, 1852.]

15 & 16 Vict. c. 87, s. 15; *post.* [1 July, 1852.]

The Land Transfer Act, 1875, 38 & 39 Vict. c. 87, ss. 76, 77, and s. 88.

The Agricultural Holdings (England) Act, 1875, 38 & 39 Vict. c. 92, s. 38.

holding whereof the usual notice shall be given), and there offer himself to be admitted tenant in the name and on behalf of the lunatic; and in default of his appearance, or of his acceptance of admittance, the lord or his steward may, after three courts duly holden, and proclamations thereat regularly made, at any subsequent court appoint any fit person to be attorney for the lunatic for that purpose only, and by that attorney admit the lunatic tenant of the land, according to such estate as the lunatic shall be legally entitled to therein.

Fine upon admittance may be imposed and demanded.

CIX. The lord or his steward may upon the admittance impose such fine as might have been legally imposed if the lunatic had been of sound mind, which fine may be demanded by the lord's bailiff or agent, by a note in writing signed by the lord or his steward, to be left with the committee of the estate, or with the tenant or occupier of the land.

If not paid, etc., Lord may enter and receive profits of the Copyhold till he is satisfied, etc.—Lord to account yearly, and to deliver up possession on satisfaction.

CX. If the fine be not paid or tendered to the lord or his steward within three months after demand, then the lord may enter upon and hold the land, and receive the rents and profits thereof (but without liberty to fell any timber standing thereon), until he be thereby fully paid the fine, with his reasonable costs and charges of raising the same, and of obtaining the possession of the land, although the lunatic die before the fine and costs and charges have been raised; of which rents and profits received by the lord, his steward, bailiff, or servant, the lord shall yearly, on demand by the person entitled to the surplus thereof, after payment of the fine and costs and charges, or by the person then entitled to the land, render a just and true account, and shall pay the same surplus, if any, to the person entitled thereto; and as soon as the fine and costs and charges have been fully paid, or if, after the lord's entry, the fine and costs and charges be lawfully tendered to him, then the lunatic, by the committee of his estate or other the person entitled, may enter upon and hold the land according to his estate or interest therein; and the lord shall deliver possession

thereof accordingly, and if he refuse so to do he shall make satisfaction to the person kept out of possession for all the damages which he shall thereby sustain, and all his costs and charges of recovering possession.

Committee paying Fine may reimburse himself out of Rents.

CXI. If the committee pay the fine and costs and charges, then he, his executors and administrators, may enter upon and hold the land, and receive the rents and profits thereof to his and their own use, until he and they be thereby fully paid the amount disbursed upon that account, although the lunatic die before his and their reimbursement.

Unlawful Fines may be controverted.—No Forfeiture for not appearing or not paying Fine.

CXII. If the fine imposed be not warranted by the custom of the manor, or be unlawful, the lunatic may controvert its legality, as if this Act had not been made; and no lunatic shall forfeit any land for his neglect or refusal to appear at any court or to be admitted thereto, or to pay the fine imposed upon his admittance.

Committee may surrender Lease, and accept Renewal.

CXIII. Where a lunatic is entitled to a lease for a life or lives, or for a term of years, either absolute or determinable on a death, or otherwise, the committee of his estate may, in his name and on his behalf under an order of the Lord Chancellor intrusted as aforesaid, by deed, surrender the lease, and in the name and on behalf and for the benefit of the lunatic accept a new lease of the premises comprised in the lease surrendered, for such number of lives, or for such term of years, either absolute or determinable as aforesaid, as was mentioned or contained in the lease surrendered at the making thereof, or otherwise as the Lord Chancellor intrusted as aforesaid shall order.

Charges of Renewal to be charged on Estates.

CXIV. Every sum of money and other consideration paid by a committee or other person, in the nature of or as a fine, premium, or income upon renewal, and all reasonable charges incident thereto, may be paid out of the lunatic's estate, or

may, with interest, be a charge upon the leasehold premises, as the Lord Chancellor intrusted as aforesaid shall order.

New Leases to be to the same uses.

CXV. Every lease renewed shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devises, and conditions, as the lease surrendered was subject to, or would have been subject to if the surrender had not been made.

Lunatic's Property may be sold, mortgaged, etc., for Debts, Maintenance, etc.

CXVI. Where it appears to the Lord Chancellor intrusted as aforesaid to be just and reasonable, or for the lunatic's benefit, he may order that any estate or interest of the lunatic in land or stock, either in possession, reversion, remainder, contingency, or expectancy, be sold, or charged by way of mortgage, or otherwise disposed of, as may to him seem most expedient, for the purpose of raising money to be applied, and may accordingly order that the money when raised be applied for or towards all or any of the purposes following:— (*i*)

1. The payment of the lunatic's debts or engagements;
2. The discharge of any incumbrance on his estates;
3. The payment of any debt or expenditure incurred or made after inquisition, or authorised by the Lord Chancellor intrusted as aforesaid to be incurred or made, for the lunatic's maintenance or otherwise for his benefit;
4. The payment of or provision for the expenses of his future maintenance;
5. The payment of the costs of applying for, obtaining, and executing the inquiry, and of opposing the same; (*j*)
6. The payment of the costs of any proceeding under or consequent on the inquisition, or incurred under order of the Lord Chancellor intrusted as aforesaid; and,
7. The payment of the costs of any such sale, mortgage, charge, or other disposition as is hereby authorized to be made:

(*i*) 25 & 26 Vict. c. 86, s. 16, *post*.
(*j*) 25 & 26 Vict. c. 86, s. 11, *post*.

And the committee of the estate may and shall, in the name and on behalf of the lunatic, execute, make, and do all such conveyances, deeds, transfers, and things relative to any such sale, mortgage, charge, or other disposition as aforesaid, and for effectuating this present provision, as the Lord Chancellor intrusted as aforesaid shall order. (*k*)

Modes in which future Maintenance may be charged when Interest not in Possession.

CXVII. In case of a charge of mortgage being made under this Act upon an interest in contingency, or in reversion, remainder, or expectancy, for the expenses of future maintenance, the Lord Chancellor intrusted as aforesaid may direct the same to be payable and paid either contingently, if the interest charged be a contingent one, or upon the happening of an event, if the interest be depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times, in such manner, and either with or without interest, as he shall deem expedient; and any charge already made which would have been valid if made after this Act shall be and is hereby declared to be valid.

Expenses of Improvements may be charged on Estate.

CXVIII. Where it appears to the Lord Chancellor intrusted as aforesaid to be for the lunatic's benefit, he may order that the whole or any part of any monies expended or to be expended under this order for the permanent improvement, security, or advantage of the land of the lunatic or of any particular part thereof, shall, with interest, be a charge upon and be raiseable out of the lunatic's estate and interest in the land or such particular part thereof as aforesaid, but so that no right of sale or foreclosure during the lifetime of the lunatic be given or acquired under or by virtue of the charge; and the interest shall be kept down during the lunatic's lifetime out of the income of his general estate, as far as the same shall be sufficient to bear it; and the committee

(*k*) *Re* Pugh, 22 L. T. ch. 93; 17 Jur. 979. *In re* Stables, 33 L. J. R. (N.S.) ch. 422; 10 L. T. (N.S.) ch. 1. *In re* Corbett, 35 L. J. R. (N.S.) ch. 793. *In re* Corbett, 35 L. J. R. (N.S.) ch. 793; 14 L. T. (N.S.) ch. 748; L. R. 1, ch. 516.

of the estate may and shall, in the name and on behalf of the lunatic, execute and do all such conveyances and things for effectuating this present provision as the Lord Chancellor intrusted as aforesaid shall order; and such charge may be made either to some person advancing the money, or if the money is paid out of the lunatic's general property, to some person as a trustee for him, as part of his personal estate.

Surplus of Monies to be of the same nature as the Estate.

CXIX. On any monies being raised by sale, mortgage, charge, or other disposition of land made in pursuance of any of the foregoing provisions, the person whose estate is sold, mortgaged, charged, or otherwise disposed of, and his heirs, next of kin, devisees, legatees, executors, administrators, and assigns, shall have such and the like interest in the surplus monies remaining after the purposes for which the monies have been raised shall have been answered as he or they would have had in the estate if no sale, mortgage, charge, or other disposition thereof had been made, and the surplus monies shall be of the same nature and character as the estate sold, mortgaged, charged, or otherwise disposed of; and the Lord Chancellor intrusted as aforesaid may make such orders, and direct such conveyances, deeds, and things to be executed and done (which may and shall accordingly be executed and done), as may be necessary for the effectuating this present provision, and for the due application of the surplus monies.

Where Property very small, Lord Chancellor may apply same directly for Lunatic's Maintenance, without Grant, etc.

CXX. Where it is made to appear to the Lord Chancellor intrusted as aforesaid that the net amount or net estimated value of the property of a lunatic does not exceed the sum of five hundred pounds sterling, and it appears to him, having regard to the situation and condition in life of the lunatic and his family, and the other circumstances of the case, to be expedient that the amount or value of his property should be made available for his maintenance in a direct and inexpensive manner, and that the same can be safely and properly done, he may, instead of proceeding to order a grant

of the custody of the estate, (*l*) order or allow that the amount of the property, if in money or stock, or if of any other description the produce thereof when realised, be paid or transferred to such relative of the lunatic, or such other person as he may think proper to intrust with the application thereof, to be by him applied in or towards the maintenance of the lunatic, either at his discretion or in such manner and subject to such control as the Lord Chancellor intrusted as aforesaid may direct; and for the purpose of giving effect to any such order, the Lord Chancellor intrusted as aforesaid may order any small real estate or other property of the lunatic to be sold, and a valid conveyance or transfer thereof to be executed or made by such person as he shall direct. (*m*)

Where Lunacy temporary, Lord Chancellor may apply Cash arising from Income for temporary Maintenance without Grant, etc.

CXXI. Where it appears to the Lord Chancellor intrusted as aforesaid, upon a report of the Masters, that there is reason to believe that the unsoundness of mind of any lunatic so found by inquisition is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the lunatic, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available and may be safely and properly applied in that behalf, the Lord Chancellor intrusted as aforesaid may allow thereout such amount as he may think proper for the temporary maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money as afore-

(*l*) As to proceeding without inquisition, where the property is small in amount, see 25 & 26 Vict. c. 86, ss. 12–14, *post*. See also the Thirteenth Report of the Commissioners in Lunacy, 1859, pp. 71, 72.
(*m*) *Halfhyde* v. *Robinson*, 43 L. J. R. (N.S.) ch. 398.

said, or any part thereof, to such person as he may, under the circumstances of the case, think proper to intrust with the application thereof, and may direct the same to be paid to such person accordingly, and when received to be applied, and the same shall accordingly be applied, in or towards such temporary maintenance as aforesaid; and the receipts in writing of the person named in the order to whom payment is to be made for any monies payable to him by virtue thereof shall effectually discharge the banker, agent, or other person paying the same from the monies therein respectively expressed to be received, and they respectively are hereby directed to act upon and obey every such order; and the person so receiving any monies by virtue of this present provision shall pass an account thereof before the Masters, when required.

Committee may convey Land in performance of Contracts.

CXXII. Where a person having contracted to sell, mortgage, let, divide, exchange, or otherwise dispose of any land, afterwards becomes lunatic, and the contract is not disputed, and is such as the Lord Chancellor intrusted as aforesaid thinks ought to be performed, or a specific performance of the contract, either wholly or so far as the same remains to be performed, has been decreed or ordered by the Court of Chancery, either before or after the lunacy, the committee of the estate may, in the name and on behalf of the lunatic, under an order of the Lord Chancellor intrusted as aforesaid, on the application of the party claiming the benefit of the contract with the lunatic, or any plaintiff in the suit, receive and give an effectual discharge for the money payable to the lunatic, or so much thereof as remains unpaid, and make such conveyance of the land to such person and in such manner as the Lord Chancellor intrusted as aforesaid may order.

Lord Chancellor may dissolve Partnership, and Committee may convey Partnership Property.

CXXIII. Where a person, being a member of a co-partnership firm, becomes lunatic, the Lord Chancellor intrusted as aforesaid may, by order made on the application of the partner or partners of the lunatic, or of such other person or persons as the Lord Chancellor intrusted as afore-

said shall think entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution of the partnership by decree of the Court of Chancery, or otherwise by due course of law, the committee of the estate, in the name and on behalf of the lunatic, may join and concur with such other person or persons in disposing of the partnership property, as well real as personal, to such persons, upon such terms, and in such manner, and may and shall execute and do such conveyances and things for effectuating this present provision, and apply the monies payable to the lunatic in respect of his share and interest in the copartnership, in such manner as the Lord Chancellor intrusted as aforesaid shall order.

Committee may make Sale, Partition, or Exchange.

CXXIV. Where a lunatic is seised of or entitled to an undivided share of land, and it appears to the Lord Chancellor intrusted as aforesaid to be for his benefit and to be expedient that a sale of the land, or part thereof, or a partition of the land, should be made, and where a lunatic is seised of or entitled to land, and it appears to the Lord Chancellor intrusted as aforesaid to be for his benefit and to be expedient that an exchange thereof, or of part thereof, for other land, should be made, the committee of the estate, in the name and on behalf of the lunatic, under an order of the Lord Chancellor intrusted as aforesaid, may concur with such other person in making such sale or partition, or may make such exchange, and receive such monies payable on the sale, and give or receive such monies for equality of partition or exchange, or otherwise in relation thereto, as the order may direct; and all monies received by the committee of the estate upon any such sale, partition, or exchange as aforesaid shall be applied and disposed of in manner directed in section one hundred and thirty-five of this Act (*n*) respecting the fines, premiums, and sums of money therein mentioned; and the land taken in exchange shall be held and assured (as nearly as may be) to the same uses, and upon the same trusts, and subject to the same powers and provisions (if any), to, upon, and subject to which the

(*n*) See s. 135, *post*. See also the Partition Act, 1868 (31 & 32 Vict. c. 40), and the Partition Act, 1876 (39 & 40 Vict. c. 17).

land given in exchange was held; and the committee of the estate may and shall, in the name and on behalf of the lunatic, execute and do all such conveyances and things for effectuating this present provision as the Lord Chancellor intrusted as aforesaid shall order. (*o*)

Committee may sell Land for Building Purposes.

CXXV. Where a lunatic is seised of or entitled to land in fee simple, and it appears to the Lord Chancellor intrusted as aforesaid to be for his benefit that the same or any part thereof should be made available for building purposes, and that to that end the same should, in lieu of being demised for long terms of years, be absolutely sold, he may order the same to be sold accordingly, to such persons, in such quantities, upon such terms, and in such manner as to him may seem expedient, and the monies arising thereby shall be applied and disposed of in manner directed in section one hundred and thirty-two of this Act (*p*) respecting the surplus monies therein mentioned; and the committee of the estate may and shall, in the name and on behalf of the lunatic, execute and do all such conveyances and things for effectuating this present provision as the Lord Chancellor intrusted as aforesaid shall order.

Committee may assign Business Premises.

CXXVI. Where a lunatic has been engaged in a trade or business, and it appears to the Lord Chancellor intrusted as aforesaid to be for the benefit of the lunatic or his estate that the business premises should be disposed of, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, make such conveyance of the messuages, buildings, or hereditaments of or belonging to the trade or business, or used in connexion therewith, according to the lunatic's estate and interest in the same, to such person, and shall apply the monies raising thereby in such

(*o*) *Singleton* v. *Hopkins*, 4 Jur. (N.S.) 546; 4 De Gex & J. 88; *re* Bloomer, 27 L. J. R. (N.S.) ch. 173; 30 L. T. 238; *re* Wheeler, 8 Jur. (N.S.) ch. 785; *re* Trevelyan, 31 L. J. R. (N.S.) ch. 500.

(*p*) See s. 132, *post*. *In re* Corbett, 35 L. J. R. (N.S.) ch. 793; 14 L. T. (N.S.) ch. 748; L. R. 1 ch. 516.

manner as the Lord Chancellor intrusted as aforesaid shall order.

Committee may dispose of undesirable Lease.

CXXVII. Where a lunatic is entitled to a lease for a life or lives or a term of years, either absolute or determinable on a death or otherwise, or to an under-lease, of whatsoever nature, and it appears to the Lord Chancellor intrusted as aforesaid to be desirable and for the benefit of the lunatic or his estate that the lease or under-lease should be disposed of, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, surrender, assign, or otherwise dispose of the lease or under-lease, to such person, for such valuable or other consideration, upon such terms, by such conveyances, and in such manner, and shall apply the monies (if any) arising thereby in such manner, as the Lord Chancellor intrusted as aforesaid shall order.

Committee may make Agreements under 1 *Geo. I. c.* 10.

CXXVIII. The committee of the estate of a lunatic may, with the approbation of the Lord Chancellor intrusted as aforesaid, signified by order on the application of the committee, enter into any agreement for or on behalf of the lunatic (*q*) which the guardian of an infant might have entered into for or on behalf of the infant by virtue of the Act passed in the session of Parliament, holden in the first year of the reign of King George the First, chapter ten, (*r*) if so much of that Act as related to agreements of guardians for or on behalf of infants or idiots under their guardianship had not been repealed by the Act passed in the session of Parliament holden in the first year of the reign of King William the Fourth, chapter sixty-five, section twenty-five. (*r*)

Committee may make Building and other Leases, subject to such Covenants as Lord Chancellor shall order.

CXXIX. Where a lunatic is seised or possessed of or entitled to land in fee or in tail, or to leasehold land for an absolute interest, and it appears to the Lord Chancellor intrusted as aforesaid to be for his benefit that a lease or under-

(*q*) *Re* Way, 30 L. J. R. (N.S.) ch. 815.
(*r*) See s. 108, *ante*.

lease should be made thereof for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, make such lease of the land or any part thereof, according to the lunatic's estate and interest therein, and to the nature of the tenure thereof, for such term or terms of years and subject to such rents and covenants as the Lord Chancellor intrusted as aforesaid shall order. (*s*)

Committee may make Leases of Mines already opened.

CXXX. Where a lunatic is seised or possessed of or entitled to land in fee or in tail, and it appears to the Lord Chancellor intrusted as aforesaid, to be for his benefit that any mine or quarry already opened in, upon, or under the land should be worked, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor entrusted as aforesaid, make such lease of the mines, quarries, minerals, stones and substances, in, upon, or under the land, either with or without any land convenient to be held therewith, and with or without the surface, to such person, for such term or terms of years, and subject to such rents, royalties, reservations, covenants, and agreements, and in such manner and form, as the Lord Chancellor intrusted as aforesaid shall order. (*s*)

Committee may, where necessary for Maintenance of Lunatic, or expedient, make Leases of Mines unopened.

CXXXI. Where a lunatic is seised or possessed of or entitled to land in fee or in tail, and it appears to the Lord Chancellor intrusted as aforesaid either to be necessary for the maintenance of the lunatic and the members of his immediate family for whom provision is directed to be made, or to be expedient in due course of management, that any mine or quarry, being in, upon, or under the land, should be opened and worked, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, make such lease of

(*s*) 18 & 19 Vict. c. 13, *post*.

the mines, quarries, minerals, stones, and substances in, upon, or under the land, although not already opened or worked, and either with or without any land convenient to be held therewith, and with or without the surface, to such person for such term or terms of years, and subject to such rents, royalties, reservations, covenants, and agreements, and in such manner and form, as the Lord Chancellor intrusted as aforesaid shall order. (*t*)

Produce of newly opened Mines, where necessary for Lunatic's Maintenance, to be so applied; otherwise to be carried to separate account, and be considered real Estate.

CXXXII. Where the Lord Chancellor intrusted as aforesaid makes any such order as in and by the last preceding section is authorised to be made, by reason of its appearing to him to be necessary for the maintenance of the lunatic and such members of his immediate family as aforesaid, that the mine or quarry should be opened and worked, then the monies arising thereby shall be applied in or towards such maintenance as aforesaid, in such manner as the Lord Chancellor intrusted as aforesaid shall direct; but in such case the surplus thereof, and in every other case all the monies so arising, shall be carried to a separate account, and may be applied for or towards all or any of the purposes for which monies are hereinbefore authorised to be raised by sale of the lunatic's estate, or in such other manner for the lunatic's benefit as the Lord Chancellor intrusted as aforesaid shall direct; and upon the lunatic's death the monies remaining on the credit of such separate account shall, as between the representatives of his real and of his personal estate, be considered as real estate.

Committee may execute Leasing Powers of Lunatic having limited Estate.

CXXXIII. Where a lunatic has a limited estate only in land, and any power whatsoever of leasing the same is vested in him, the committee of his estate may and shall from time to time, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, execute the power, to such extent and in such manner as the order

(*t*) 18 & 19 Vict. c. 13, *post*.

shall direct; and all fines, premiums, and sums of money (if any) received for or upon the granting of any lease under this present provision shall be applied and disposed of in manner directed in section one hundred and thirty-five of this Act, (*u*) respecting the fines, premiums, and sums of money therein mentioned.

Committee may accept Surrender, and make new Lease.

CXXXIV. Where a lunatic is entitled or has a right to renew, and either it would be for his benefit to renew, or he might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew, a lease made for a life or lives, or for a term of years, either absolute or determinable on a death or otherwise, the committee of his estate may, in his name, under an order of the Lord Chancellor intrusted as aforesaid, upon the application of the committee, or of any person entitled to the renewal, accept a surrender of the lease, and make and execute a new lease, of the premises comprised in the lease surrendered, for such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease surrendered at the making thereof, or otherwise as the Lord Chancellor intrusted as aforesaid shall order, but so that no renewed lease be executed by virtue of this Act, in pursuance of any covenant or agreement, unless the fine (if any) or such other sum of money (if any) as ought to be paid on renewal, and such things (if any) as ought to be performed in pursuance of the covenant or agreement by the lessee or tenant, be first paid and performed, and a counterpart be duly executed by the lessee.

Fines, and how to be paid.—On Death of Lunatic, quality of Money arising by Fines.

CXXXV. All fines, premiums, and sums of money received upon renewal shall, after deduction of all necessary incidental charges and expenses, be paid to the committee of the estate, and be applied for the lunatic's benefit as the Lord Chancellor intrusted as aforesaid shall order; but upon the lunatic's death all such monies as have arisen by such

(*u*) See s. 135, *post.*

fines, premiums, or sums of money, or so much thereof as then remains unapplied for his benefit, shall, as between the representatives of his real and of his personal estate, be considered as real estate, unless the lunatic be tenant for life only, and then the same shall be considered as personal estate. (*v*)

Committee may exercise power vested in Lunatic or give Consent.

CXXXVI. Where a power is vested in a lunatic for his own benefit, or the consent of a lunatic is necessary to the exercise of a power, and such power of consent is in the nature of a beneficial interest in the lunatic, and it appears to the Lord Chancellor intrusted as aforesaid to be for the lunatic's benefit, and also to be expedient, that the power should be exercised or the consent given (as the case may be), the committee of the estate may, in the name and on behalf of the lunatic, under an order of the Lord Chancellor intrusted as aforesaid, made upon the application of the committee of the estate, exercise the power or give the consent, as the case may be, in such manner as the order shall direct.

Committee may exercise Power vested in Lunatic in character of Trustee, or Guardian, etc.

CXXXVII. Where a power is vested in a lunatic in the character of a trustee or guardian, or the consent of a lunatic to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the Lord Chancellor intrusted as aforesaid to be fit and expedient that the power should be exercised or the consent given (as the case may be), the committee of the estate, in the name and on behalf of the lunatic, under an order of the Lord Chancellor intrusted as aforesaid, made upon the application of any person interested in the exercise of the power, may exercise the power or give the consent, as the case may be, in such manner as the order shall direct. (*w*)

(*v*) *Re* Trevelyan, 31 L. J. R. (N.S.) ch. 500; *re* Wheeler, 8 Jur. (N.S.) ch. 785.

(*w*) *Re* Bloomer, 27 L. J. R. (N.S.) ch. 173; *re* Bowmer, 28 L. J. R. (N.S.) ch. 618; *re* Parke's Trusts, 8 L. T. (N.S.) ch. 378.

Appointment of new Trustees under power to have effect of Appointments by Court of Chancery, and like Orders may be made as under Trustee Act, 1850.

CXXXVIII. Where under this Act the committee of the estate, under order of the Lord Chancellor intrusted as aforesaid, exercises, in the name and on behalf of the lunatic, a power of appointing new trustees vested in the lunatic, the person or persons who shall, after and in consequence of the exercise of the power, be the trustee or trustees, shall have all the same rights and powers as he or they would have had if the order had also been made by the Court of Chancery under the Trustee Act, 1850, or any Act amending the same, or if he or they had been appointed by decree of that Court in a suit duly instituted; and the Lord Chancellor intrusted as aforesaid may in any such case, where it seems to him to be for the lunatic's benefit, and also expedient, make any and every such order respecting the land or stock or choses in action subject to the trust as might have been made in the same case under the provisions of the Trustee Act, 1850, or any Act amending the same, on the appointment thereunder of a new trustee or new trustees. (*x*)

Deeds, etc., executed under this Act to be as valid as if Lunatic had been of sound Mind.

CXXXIX. Every surrender, lease, agreement, deed, conveyance, mortgage, or other disposition granted, accepted, made, or executed by virtue of this Act, shall be as valid and legal to all intents and purposes as if the person in whose name or place or on whose behalf the same was granted, accepted, made, or executed, had been of sound mind, and had granted, accepted, made, or executed the same.

Stock belonging to Lunatic may be ordered to be transferred.

CXL. Where any stock is standing in the name of or is vested in a lunatic beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of a lunatic, in trust for the lunatic, or as part of his property, and the committee dies intestate, or himself becomes a lunatic, or is out of the jurisdiction of or not amenable to the

(*x*) See 13 & 14 Vict. c. 60; and 15 & 16 Vict. c. 55. *In re* Bowmer, 28 L. J. R. (N.S.) ch. 618; 3 De Gex & J. 658.

process of the Court of Chancery, or it is uncertain whether the committee be living or dead, or he neglects or refuses to transfer the stock, and to receive and pay over the dividends thereof, to a new committee, or as he directs, for the space of fourteen days next after a request in writing for that purpose made by a new committee, then the Lord Chancellor intrusted as aforesaid may order some fit person to transfer the stock to or into the name of a new committee or into the name of the Accountant-General (*y*) of the Court of Chancery, or otherwise, and also to receive and pay over the dividends thereof, or such sum or sums of money and in such manner as the Lord Chancellor intrusted as aforesaid may order. (*y*)

Stock in Name of Lunatic residing out of England and Wales may be ordered to be transferred.

CXLI. Where any stock, or any portion of the capital stock, or any share of any company or society, whether transferable in books or otherwise, is standing in the name of or vested in a person residing out of England and Wales, the Lord Chancellor intrusted as aforesaid, upon proof to his satisfaction that the person has been declared idiot, lunatic, or of unsound mind, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where he is residing, may order some fit person to make such transfer of the stock, or such portion of the capital stock or share as aforesaid, or any part or parts thereof respectively, to or into the name of the curator or other person appointed as aforesaid, or otherwise, and also to receive and pay over the dividends thereof, as the Lord Chancellor intrusted as aforesaid may think fit. (*z*)

Who shall be appointed to make Transfer.

CXLII. Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made; (*a*) and where the transfer is to be made in books kept by the

(*y*) *Re* Ives, 32 L. J. R. (N.S.) ch. 673; 8 L. T. (N.S.) ch. 266; and see note (*y*) to sec. 101, *ante*.
(*z*) See s. 85, *ante*; and s. 33, *ante*.
(*a*) *Re* Ives, 8 L. T. (N.S.) ch. 266; 32 L. J. R. (N.S.) ch. 673.

Governor and Company of the Bank of England, the officer to be named shall be the secretary or deputy secretary, or accountant-general or deputy accountant-general for the time being, of the said Governor and Company.

Transfers, etc., to be binding.

CXLIII. All transfers and payments made in pursuance of this Act shall be valid and binding to all intents and upon all persons whomsoever. (*b*)

Indemnity to Bank of England, etc.

CXLIV. This Act shall be a full indemnity and discharge to the Governor and Company of the Bank of England, their officers and servants, and all other persons respectively, for all acts and things done or permitted to be done pursuant thereto, which acts and things respectively shall not be questioned or impeached in any court of law or equity to their detriment. (*b*)

Costs may be paid out of Estate.

CXLV. The Lord Chancellor intrusted as aforesaid may order the costs and expenses of and relating to the petitions, applications, orders, directions, conveyances, and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the land or stock, or the rents or dividends in respect of which the same respectively shall be made, in such manner as he may think proper.

Act not to subject Lunatic's Property to Debt.

CXLVI. Nothing in this Act contained shall extend to subject any part of a lunatic's property to the debts or demands of his creditors, further or otherwise than as the same is now subject thereto by due course of law.

Powers to extend to Colonies, etc.

CXLVII. The powers and authorities given by this Act to the Lord Chancellor intrusted as aforesaid shall extend to all land and stock within any of the dominions, plantations, and colonies of Her Majesty (except Scotland and Ireland).

(*b*) 25 & 26 Vict. c. 86, s. 17, *post*.

Traverse.

And with respect to the traverse of an inquisition, (*c*) be it further enacted as follows:—

Petitions for Traverse to be presented within a limited Time.

CXLVIII. Any person desiring to traverse may, within the three months next after the day of the return of the inquisition, present a petition for that purpose to the Lord Chancellor intrusted as aforesaid, who is hereby required to hear and determine the petition, and shall, in his order upon it for a traverse, limit a time, not exceeding six months from the date of the order, within which the person desiring to traverse and all other proper parties are to proceed to trial of the traverse, and who may by the same or any other order direct that the person desiring to traverse, not being the person the object of the inquisition, shall, within the three weeks next after the date of the order, give sufficient security to and to the satisfaction of the Masters for all proper parties proceeding to trial within the time to be limited as aforesaid.

Persons not petitioning, or not proceeding to Trial within a limited time, barred.

CXLIX. Every person having right to traverse who shall not within the time hereinbefore limited present his petition for that purpose, or who shall refuse or neglect to give such security as aforesaid, or who shall not proceed to trial within the time to be limited as aforesaid, and his heirs, executors, and administrators, and all others claiming by, through, or under him, shall be absolutely barred of his and their right of traverse, unless the Lord Chancellor intrusted as aforesaid shall, under the special circumstances of any particular case, think fit, upon petition for that purpose, to allow the traverse to be had or tried after the time by this Act limited, in all which special cases the Lord Chancellor intrusted as aforesaid may make such orders as to him shall seem just.

Lord Chancellor may direct new Trials.—No Person shall traverse oftener than once.

CL. If the Lord Chancellor intrusted as aforesaid be dis-

(*c*) 2 & 3 Edw. vi. c. 8, s. 3, *ante*; and 25 & 26 Vict. c. 86, ss. 3, 7, 11, *post*.

satisfied with the verdict returned upon a traverse, he may order one or more new trial or trials thereon, as to him shall seem meet, and as is usual in cases of issues directed by the Court of Chancery; but no person shall be admitted to traverse oftener than once.

Lord Chancellor may, notwithstanding Traverse, make Orders for management of Person and Estate.

CLI. The Lord Chancellor intrusted as aforesaid and the Masters may from time to time, after the return of the inquisition, and notwithstanding a petition or order depending relative to a traverse thereof, make such orders and do such acts relative to the custody and commitment of the person, and the commitment, management, and application of the estates and effects of the person, the object of the inquisition, as he or they shall think necessary or proper (inclusive of the imposition and levying of fees and per-centage as hereinbefore provided); and all things done by any person appointed committee of the person or estate, or by any other person, shall be as valid and effectual, and all committees and other persons respectively, and their respective heirs, executors, and administrators, are hereby indemnified in respect of all such things as aforesaid from and against all actions, suits, and proceedings, damages, costs, charges, and expenses, to be brought, commenced, had, or recovered by the person the object of the inquisition, his heirs, executors, or administrators, or any other person whomsoever, as fully and effectually as if the inquisition had not been traversable, but not further or otherwise. (*d*)

SUPERSEDEAS.

And with respect to the supersedeas of an inquisition, (*e*) be it further enacted as follows:—

Inquisition may be superseded upon Terms.

CLII. Where any person has been found of unsound mind by inquisition, but the question of unsoundness of mind is

(*d*) 25 & 26 Vict. c. 86, s. 7, *post*. *Ex parte* Loveday, 1 De Gex, M. & G. 275; *re* Armstrong, 2 De Gex & J. 123; *re* Cumming, 21 L. J. R. (N.S.) ch. 758; 23 L. J. R. (N.S.) ch. 261; 5 De Gex, M. & G. 30.

(*e*) 25 & 26 Vict. c. 86, s. 10, *post*.

disputed, and liberty to traverse has been applied for, and whether granted or not, and it appears to the Lord Chancellor intrusted as aforesaid to be for the lunatic's benefit, and also to be expedient that the inquisition should be superseded on terms and conditions, and subject to an arrangement respecting the lunatic's estate, he may, upon the consent of the lunatic and of the person entitled or claiming to traverse, and of such other persons, if any, whose consent he may deem necessary, order the inquisition to be superseded on such terms and conditions to be fulfilled by the lunatic or such other person, and subject to such arrangement respecting the lunatic's estate, as he may under the circumstances of the case think proper, and may by the same or any other order direct the lunatic and any other persons, being consenting parties to the arrangement, to execute, make, and do, before or after the issuing of the writ of supersedeas, and he and they shall accordingly execute, make, and do, all such conveyances, transfers, and things as may to the Lord Chancellor intrusted as aforesaid seem necessary or proper for or for securing the fulfilment of such terms and conditions and the completion of such arrangement as aforesaid, and generally may make such orders as to him may seem proper for effectuating this present provision; and all conveyances, transfers, and things executed, made, and done under any such order of the Lord Chancellor intrusted as aforesaid, either before or after the issuing of the writ of supersedeas, shall be as valid and binding to all intents, and upon all persons whomsoever as if the lunatic had not been found or had not been of unsound mind, but not further or otherwise. (*f*)

General Orders.

And be it declared and further enacted as follows:—

Power to Lord Chancellor to make General Orders.

CLIII. The Lord Chancellor, with the advice and assistance aforesaid, (*g*) may from time to time make such orders

(*f*) *Re* ———, a lunatic, 28 L. J. R. (N.S.) ch. 644; 4 De Gex & J. 103; *re* Lady Stair, 8 L. T. ch. 405; *re* Gordon, 2 Phil. 242; *ex parte* Loveday, 1 De Gex, M. & G. 275; *re* Blackmore, 8 L. T. (N.S.) ch. 264, 476; 32 L. J. R. (N.S.) ch. 436. As to the nullification of the marriage of a lunatic who marries before he or she is declared to be of sane mind, see 15 Geo. ii. c. 30, and 51 Geo. iii. c. 37.

(*g*) *i.e.*, of the Lords Justices; see s. 28, *ante*.

as to him shall seem meet for carrying into effect the purposes of this Act, and for regulating the form and mode of proceeding before and by the Masters and the practice in matters in lunacy, and for regulating the duties of the several officers in lunacy, and, so far as to him may seem expedient, for altering the course of proceeding hereinbefore prescribed in respect of the matters to which this Act relates, or any of them; and any such order as aforesaid may be from time to time rescinded or varied by the like authority; and every such order as aforesaid which shall alter the course of proceeding hereinbefore prescribed in respect of the matters to which this Act relates, or any of them, shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then assembled, and if not, then within fourteen days after the meeting of Parliament then next following; and if either House of Parliament shall, by resolution, passed within thirty-six days next after any such order as aforesaid has been laid before it, resolve that the whole or any part thereof ought not to continue in force, in that case the whole order or the part of the order specified in the resolution (as the case may be) shall from and after the passing of the resolution cease to be binding.

The SCHEDULES above referred to.

SCHEDULE 1.—(Section 1.)

The Acts repealed by this Act, wholly or in part.

Date of Act.	Title of Act.	Extent of Repeal.
6 Geo. iv. c. 53. [22nd June 1825].	An Act for limiting the Time within which Inquisitions of Lunacy, Idiotcy, and Non compos mentis may be traversed, and for making other Regulations in the Proceedings pending a Traverse.	The whole Act, except so far as it relates to Ireland. (*a*)
1 Wm. iv. c. 65. [23rd July 1830].	An Act for consolidating and amending the Laws relating to Property belonging to Infants, Femes Covert, Idiots, Lunatics, and Persons of unsound Mind.	So much of the Act as relates to or affects Idiots, Lunatics, and Persons of unsound Mind, or their Property, except so far as it relates to Ireland, but excluding from this exception section 41, which is in substance re-enacted by this Act (*b*).
3 & 4 W. iv. c. 36. [24th July 1833].	An Act for diminishing the Inconvenience and Expense of Commissions in the Nature of Writs De lunatico inquirendo, and to provide for the better Care and Treatment of Idiots, Lunatics, and Persons of unsound Mind found such by Inquisition.	The whole Act.

(*a*) See also 34 & 35 Vict. c. 22, s. 118.
(*b*) See also 34 & 35 Vict. c. 22, s. 118.

Date of Act.	Title of Act.	Extent of Repeal.
3 & 4 W. iv. c. 84. [28th August 1833].	An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been abolished.	So much of the Act as relates to the Office or Place of "The Secretary of Lunatics. (*c*)
5 & 6 Vict. c. 84. [5th August 1842].	An Act to alter and amend the Practice and Course of Proceedings under Commissions in the Nature of Writs De lunatico inquirendo.	The whole Act, except sections 10, 12, and 16, which relate to the Abolition of an Office, and to the Suitors Fee Fund, and to certain Compensations. (*d*)
15 & 16 Vict. c. 48. [30th June 1852].	An Act for the Amendment of the Law respecting the Property of Lunatics.	Sections 1, 2 and 3, except so far as the same relate to Ireland. (*e*)
15 & 16 Vict. c. 87. [1st July 1852].	An Act for the Relief of the Suitors of the High Court of Chancery.	Sections 14, 30, 31, 32 and 33, all which are in substance re-enacted by this Act. (*f*)

(*c*) The rest of this Act (3 & 4 Wm. iv. c. 84), except so much of s. 2 as relates to the Secretary of Presentations, is repealed by the 37 & 38 Vict. c. 81, s. 12, passed August 7, 1874.

(*d*) By the 32 & 33 Vict. c. 91 (passed August 9, 1869), ss. 12 & 16 of the 5 & 6 Vict. c. 84 were repealed, but s. 10 was not thereby affected; but by the Statute Law Revision Act, 1874, No. 2, 37 & 38 Vict. c. 96 (passed August 7, 1874), the whole Act, 5 & 6 Vict. c. 84, was repealed.

(*e*) See also 34 & 35 Vict. c. 22, s. 118.

(*f*) The 15th section of the Act 15 & 16 Vict., c. 87, which is not repealed (see 35 & 36 Vict., c. 44, s. 26), is as follows:—

"XV. All the jurisdiction, and all the powers and authorities of a judicial nature, given by the Act of the session holden in the first year of the reign of King William the Fourth, chapter sixty-five, by the 'Trustee Act, 1850,' and by any other Acts or Act of Parliament now in force, to the Lord Chancellor intrusted by virtue of the Queen's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, shall belong to and may be exercised by all or any of the persons or person for the time being intrusted as aforesaid." (See s. 108, *ante*.)

SCHEDULE 2.—(Section 6.)

The Oath of the Masters.

I, , do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts given to and reposed in me as one of the Masters in Lunacy, and that without favour or affection, prejudice or malice.

So help me God.

SCHEDULE 3.—(Section 59.)

Short Form of Affidavit.

In the Matter of *A.B.*, a Person of unsound Mind.

I, *C.D.*, the Petitioner named in the above-written [*or* annexed, *as the case may be*] petition, [*or* the person bringing in the above-written (*or* annexed) state of facts, etc.] make oath and say, that so much of the above-written petition, etc. [*as before*] as relates to my own acts and deeds is true, and so much thereof as relates to the acts and deeds of any and every other person, I believe to be true.

Sworn, etc.

18 Vict. c. 13.

An Act to amend and explain the Lunacy Regulation Act, 1853. (*a*)

[26*th April*, 1855.

Whereas by the section numbered CXXIX. of an Act passed in the sixteenth and seventeenth years of the reign of Her present Majesty, intituled "An Act for the Regulation of Proceedings under Commissions of Lunacy, and the Consolidation and Amendment of the Acts respecting Lunatics so found by Inquisition, and their Estates," it was enacted, that where a lunatic is seised or possessed of or entitled to land in fee or in tail, or to leasehold land for an absolute interest, and it appears to the Lord Chancellor intrusted as in the said Act mentioned, to be for his benefit that a lease or under-lease should be made thereof for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, the committee of the estate may, in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, make such leases of the land or any part thereof, according to the lunatic's estate and interest therein, and to the nature of the tenure thereof, for such term or terms of years, and subject to such rents and covenants, as the Lord Chancellor intrusted as aforesaid shall order: And whereas it has been considered that the Lord Chancellor intrusted as aforesaid cannot by force of the said enactment empower the committee of a lunatic tenant in tail to grant leases as extensively as was intended by the said enactment, which will bind his issue in tail and the remainder-men: And whereas it is expedient to explain and enlarge the power of the Lord Chancellor, intrusted as aforesaid, in the matter aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

(*a*) 16 & 17 Vict. c. 70, ss. 129, 130, 131, *ante*.

Lord Chancellor, in matters of Lunacy, enabled to empower Committees of Estates to grant Leases binding on Issue or Remainder-men.

I. Where a lunatic is seised of or entitled to land in tail, and it appears to the Lord Chancellor intrusted as aforesaid to be for his benefit, the committee of the estate may in the name and on behalf of the lunatic, under order of the Lord Chancellor intrusted as aforesaid, make any such leases of the land or any part thereof as in the said section of the said Act are mentioned, and every such lease shall be good and effectual in law against the lunatic and his heirs, and all persons claiming the lands entailed by force of any estate tail which shall be vested in such lunatic, and also against all persons, including the Queen's most Excellent Majesty, her heirs and successors, whose estates are to take effect after the determination of or in remainder or reversion expectant upon such estate tail, according to such estate as is comprised and specified in every such lease, in like manner as the same would have been good and effectual in law if the lunatic at the time of the making of such leases had been lawfully seised of the same lands comprised in such lease of a pure estate in fee simple to his own use, and had been of sound mind, and not the subject of a commission of lunacy, and had himself granted such lease; and every person to whom from time to time the reversion expectant upon the lease shall belong after the death of the lunatic shall and may have such and the like remedies and advantages, to all intents and purposes, against the lessee, his executors, administrators, and assigns, as the lunatic or his committee would or might have had against him or them: And the powers given by sections numbered CXXX. and CXXXI. of the said recited Act shall and are to operate as extensively as the power given by the said section CXXIX. of the said Act as explained and enlarged by this Act.

Interpretation.

II. Where any of the expressions in this Act are used in the said recited Act they shall receive the same interpretation in this Act as by the said recited Act is imposed upon them.

19 & 20 Vict. c. 120.

An Act to facilitate Leases and Sales of Settled Estates.

[29*th July*, 1856.

Provision as to Infants, Lunatics, &c.

XXXVI. All powers given by this Act, and all applications to the Court under this Act, and consents to such applications, may be exercised, made, or given by guardians on behalf of infants, and by committees on behalf of lunatics, and by assignees of bankrupts or insolvents: provided nevertheless, that in the cases of infants or lunatic tenants in tail no application to the Court or consent to any application may be made or given by any guardian or committee without the special direction of the Court.

23 & 24 VICT. C. 127.

An Act to amend the Laws relating to Attorneys, Solicitors, Proctors, and certificated Conveyancers.

[*28th August*, 1860.

Provision for Costs in matters of Lunacy in case of Death.

XXIX. In every case in which an attorney or solicitor has been or shall be employed to prosecute or oppose any inquiry whether a person is a lunatic, idiot, or of unsound mind, and incapable of managing himself or his affairs, or in or about any proceedings consequent upon such inquiry, and the costs of such attorney or solicitor have not been paid in the lifetime of such person, it shall be lawful for the Lord High Chancellor or the Lords Justices, or other the person or persons intrusted by Her Majesty with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, to make such and the like orders and to exercise the like power and authority for taxation of and for raising and payment of such costs after the death of such person as could or might have been exercised or made in his lifetime; and such orders and proceedings shall be as valid and effective to all intents and purposes as if made in the lifetime of the lunatic: provided always, that it shall not be lawful for the court or judge to make any such order but within six years next after the right to recover such costs, charges, and expenses shall have accrued. (*a*)

(*a*) See 16 & 17 Vict. c. 70, s. 116, *ante*; 25 & 26 Vict. c. 86, s. 11, *post*, and s. 16, *post*.

25 & 26 Vict. c. 86.

An Act to amend the Law relating to Commissions of Lunacy and the Proceedings under the same, and to provide more effectually for the Visiting of Lunatics, and for other Purposes.

[*7th August*, 1862.

Whereas it is expedient to amend the law relating to commissions of lunacy and the proceedings under the same, and to provide more effectually for the visiting of persons found lunatic by inquisition, and to make the other provisions hereinafter contained with respect to certain officers in lunacy, and otherwise: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

I. This Act may be cited as "The Lunacy Regulation Act, 1862."

Interpretation.

II. In this Act, unless there be something in the subject-matter or context repugnant to the construction, the following terms shall have the meanings hereinafter assigned to them:

Act to be construed as part of Lunacy Regulation Act, 1853, 16 & 17 *Vict. c.* 70.

The expression "the Lord Chancellor intrusted as aforesaid," and the several other expressions and words mentioned and referred to in the second section of the Act (*a*) passed in the session of Parliament holden in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter seventy, intituled "An Act for the Regulation of Pro-

(*a*) See 16 & 17 Vict. c. 70, s. 2, *ante*.

ceedings under Commissions of Lunacy, and the Consolidation and Amendment of the Acts respecting Lunatics so found by Inquisition, and their Estates," shall be read and construed according to the interpretations thereof contained in the said section:

And generally the provisions of the said Act (except so far as the same are altered by or are inconsistent with this Act) shall extend and apply to the several cases and matters provided for by this Act, in the same way as if this Act had been incorporated with and had formed part of the said Act.

Nature and Limit of Inquiry under Commissions of Lunacy.

III. The inquiry to be made under every order for inquiry or commission of lunacy or issue shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by such person, or as to his demeanour or state of mind at any time being more than two years before the time of the inquiry, shall be receivable in proof of insanity on any such inquiry, or on the trial of any traverse of an inquisition, unless the Judge or Master shall otherwise direct. (*a*)

Inquiries before a Jury to be made by means of an Issue to one of the superior Courts of Common Law.

IV. Wherever, under the said Act, the Lord Chancellor intrusted as aforesaid shall order an inquiry before a jury, he may by his order direct an issue to be tried in one of her Majesty's superior Courts of Common Law at Westminster, and the question in such issue shall be, whether the alleged insane person is of unsound mind and incapable of managing himself or his affairs; and the provisions of the said Act with respect to commissions of lunacy, and orders for inquiry to be tried by a jury, and the trial thereof, and the constitution of the jury, shall apply to any issue to be directed as aforesaid, and the trial thereof, and subject thereto such issue and the trial thereof shall be regulated by the Act of the eighth and ninth years of the reign of her present Majesty,

(*a*) See 16 & 17 Vict. c. 70, s. 47, *ante*.

chapter one hundred and nine, intituled "An Act to amend the Law concerning Games and Wagers;" and the verdict upon any such issue, finding the alleged insane person to be of unsound mind and incapable of managing himself or his affairs, shall have the same force to all intents and purposes as an inquisition under a commission of lunacy, finding a person to be of unsound mind and incapable of managing himself or his affairs, returned into the Court of Chancery.

Reference to other Acts in Inquisition to apply to Verdict on Issue.

V. Where in any Act of Parliament, order, rule of court, or instrument, reference is made to a commission of lunacy, or the inquisition thereon, the issue hereby authorised to be directed, and the verdict thereon, operating as an inquisition, shall be deemed to be intended by or comprehended in the reference. (*b*)

Examination of alleged Lunatic on the holding of the Inquisition.

VI. On the trial of every such issue as last aforesaid the alleged insane person shall, if he is within the jurisdiction, be examined before the taking of the evidence is commenced, and at the close of the proceedings, before the jury consult as to their verdict, unless the presiding judge shall otherwise direct; and such examinations of the alleged insane person shall take place either in open court or in private as such judge shall direct.

No Traverse of an Inquisition made by one of the Judges of the Superior Courts and by a Jury to be granted, but new Trial may be ordered by the Lord Chancellor.

VII. No person shall be entitled to a traverse of any inquisition made under any such order as aforesaid upon the oath of a jury; but it shall be lawful for the Lord Chancellor intrusted as aforesaid, if he shall think fit, upon a petition being presented to him within three months next after the trial of any such issue, to order that a new trial shall be had of such issue or a new inquiry made as to the insanity of such person, subject to such directions and upon such con-

(*b*) See 16 & 17 Vict. c. 70, s. 51, *ante*.

ditions as to the Lord Chancellor intrusted as aforesaid may seem proper.

Sections one hundred and forty-eight, one hundred and forty-nine, and one hundred and fifty of the said Act (*c*) (which sections relate to petitions and orders for the traverse of inquisitions), shall not apply to any case coming within the last preceding section of this Act.

Section one hundred and fifty-one of the said Act (*d*) shall apply to all proceedings taken, orders made, and things done, pending a new trial or new inquiry or the petition for the same, in the same manner as is provided by the said section with respect to such matters pending a traverse or the petition for the same.

Demand of Inquiry by Jury.

VIII. And with reference to inquiries before the Master without a jury, and the right of the alleged lunatic to demand an inquiry by a jury, be it enacted, upon the hearing of any petition for inquiry it shall be lawful for the alleged lunatic, by himself, his counsel or solicitor, orally, or by petition addressed to the Lord Chancellor intrusted as aforesaid, to demand an inquiry by a jury, and such demand shall have the same effect as if made by notice filed with the Registrar in accordance with the provisions of the said Act. (*e*)

Demand of Inquiry by Jury may be withdrawn.

IX. Upon such hearing the alleged lunatic may, by himself, his counsel or solicitor, orally, or by petition as aforesaid, withdraw any notice of demanding an inquiry by a jury previously filed by him. (*e*)

Commission may be superseded on Conditions.

X. And with respect to the superseding of commissions, be it enacted, that if it shall appear to the Lord Chancellor that it is not expedient or for the benefit of the lunatic that the commission should be unconditionally superseded, but that the same should be superseded on terms and conditions, he may, upon the consent of the lunatic and such other per-

(*c*) See 16 & 17 Vict. c. 70, ss. 148, 149, 150, *ante.*
(*d*) See 16 & 17 Vict. c. 70, s. 151, *ante.*
(*e*) See 16 & 17 Vict. c. 70, ss. 40–43, *ante.*

sons, if any, whose consent he may deem necessary, order the commission to be superseded upon such terms and conditions as he shall think proper; and all the provisions contained in the "Lunacy Regulation Act, 1853," (*f*) in relation to the superseding of the commission in cases where a traverse has been applied for, and to the proceedings for the fulfilling of such terms and conditions, shall apply to all cases in which the commission shall be superseded upon terms and conditions under the provisions herein contained

Lord Chancellor may order Costs.

XI. It shall be lawful for the Lord Chancellor intrusted as aforesaid to order the costs, charges, and expenses of and incidental to the presentation of any petition for a commission in the nature of a writ de lunatico inquirendo, or for any order of inquiry under "The Lunacy Regulation Act, 1853," and of and incidental to the prosecution of any inquiry, inquisition, issue, traverse, or other proceeding consequent upon such commission or order, to be paid either by the party or parties who shall have presented such petition, or by the party or parties opposing such petition, or out of the estate of the alleged lunatic, (*g*) or partly in one way and partly in another, as the Lord Chancellor intrusted as aforesaid shall in each case think proper, (*h*) and such order shall have the same force and effect as orders for the payment of money made by the High Court of Chancery in cases within its jurisdiction.

AS TO PROPERTY OF INSANE PERSONS WHEN OF SMALL AMOUNT.

In order that the property of insane persons when the same is of small amount may be applied for their benefit in a summary and inexpensive manner, (*i*) be it enacted as follows:

(*f*) See 16 & 17 Vict. c. 70, s. 152, *ante*.
(*g*) See 16 & 17 Vict. c. 70, s. 116, *ante*.
(*h*) See *in re* Windham, 31 L. J. R. (N.S.) ch. 720; and Introduction, *ante*, p. 25. *Re* F. ——, 9 L. T. (N.S.) ch. 698.
(*i*) See Introduction, *ante*, pp. 27 and 37. Also, 16 & 17 Vict. c. 70, *ante;* and 16 & 17 Vict. c. 96, s. 23, *post*.

Power of Lord Chancellor, where Property of Lunatic does not exceed £1,000 in value, or £50 per annum, to apply it for his benefit in a summary manner without Inquisition.

XII. Where, by the report of one of the Masters in Lunacy, or of the Commissioners in Lunacy, or by affidavit or otherwise, it is established to the satisfaction of the Lord Chancellor intrusted as aforesaid that any person is of unsound mind and incapable of managing his affairs, and that his property does not exceed one thousand pounds in value, or that the income thereof does not exceed fifty pounds per annum, the Lord Chancellor intrusted as aforesaid may, without directing any inquiry under a commission of lunacy, make such order as he may consider expedient for the purpose of rendering the property of such person, or the income thereof, available for his maintenance or benefit or for carrying on his trade or business: (*j*) provided nevertheless, that the alleged insane person shall have such personal notice of the application for such order as aforesaid as the Lord Chancellor shall by general order to be made as after mentioned (*k*) direct. (*l*)

Power to sell Land or other Property of Lunatic for his benefit.

XIII. For the purpose of giving effect to any such order as is mentioned in the last preceding section the Lord Chan-

(*j*) This clause does not mention the lunatic's family; but the words in the next section (s. 13) are more extensive, and refer to the maintenance and benefit of the insane person "or of him and his family." On the other hand, no reference is made to the "trade or business" in s. 13; but apparently the two sections must be read together. *Re* Adams, 9 L. T. (N.S.) ch. 626.

(*k*) See s. 14, *post*. In the goods of Slumbers (deceased), 34 L. J. R. (N.S.) Prob. 93; 12 L. T. (N.S.) Prob. 582.

(*l*) The Court of Chancery in its ordinary jurisdiction can entertain applications relating to property under its control, belonging to persons of unsound mind not found lunatic by inquisition (*re* Macfarlane, 31 L. J. R. (N.S.) ch. 335; 2 J. & H. 273); but cannot make an order for the maintenance of a lunatic not found so by inquisition, unless proceedings have been taken for placing the property under the administration of the Court of Chancery (*re* Tayler, 2 De Gex, F. & J. 125). It appears, also, from the decision of the Master of the Rolls in *Vane* v. *Vane* (45 L. J. R. (N.S.) ch. 381), that the Chancery Division of the High Court of Justice has jurisdiction to make orders for the custody and maintenance of persons of unsound mind not so found by inquisition, although the property may exceed the limits fixed by the present Act; but apparently such an order will not be made if a commission of lunacy is likely to be issued. In that case the application was made on behalf

cellor intrusted as aforesaid may order any land, stock, or other property of such person as aforesaid, to be sold, charged by way of mortgage, or otherwise disposed of, and a conveyance, transfer, charge, or other disposition thereof to be executed or made by any person on his behalf, and may order the proceeds of any such sale, charge, or other disposition, or the dividends or income of such land, stock, or property, to be paid to any relative of such insane person, or to such other person as it may be considered proper to trust with the application thereof, to be by him applied in the maintenance or for the benefit of the insane person, or of him and his family, (*m*) either at the discretion of such relative or person, or in such manner, and subject to such control, and with or without such security for the application thereof, as the Lord Chancellor intrusted as aforesaid may direct; and for the purpose above mentioned the Lord Chancellor intrusted as aforesaid shall have all the same powers with respect to the transfer, sale, and disposition of, and otherwise, respecting the real and personal property of such person as aforesaid as if he had been found lunatic by inquisition. (*n*)

Power to make General Orders to carry into effect the Objects of the last preceding Section.

XIV. The Lord Chancellor may from time to time make such general orders as he may think fit for regulating the procedure to be adopted and the duties to be performed by the Masters and officers in Lunacy for obtaining such reports as aforesaid, and for carrying the objects of the two last preceding sections into effect, and for vesting in such Masters and officers such powers as the Lord Chancellor may consider expedient for the purposes aforesaid.

of a lunatic who was entitled, under the marriage-settlement and will of her father, to a life interest in stock producing £275 per annum, and the minutes of the judgment, after declaring that the trusts of the will and settlement ought to be executed, proceeded as follows:—"And it appearing that the plaintiff is from her state of mind incompetent to manage her affairs, and that she has not been found lunatic by inquisition—refer it to Chambers to appoint a proper person to act in the nature of a guardian of her person and estate."

(*m*) See note (*j*) to s. 12, *ante*.

(*n*) *In re* Stables, 10 L. T. (N.S.) ch. 1; 33 L. J. R. (N.S.) ch. 422; with reference to the estate of a married woman.

Power to apply Property of Persons acquitted on the Ground of Insanity for their Benefit.

XV. Where any person has, on the trial of any indictment, been acquitted on the ground of insanity, (*o*) it shall be lawful for the Lord Chancellor intrusted as aforesaid, on being satisfied by affidavit or otherwise of the continued insanity of such person, and of his still being in confinement, to make any such order with respect to the property (*p*) of such person, and the application thereof for his maintenance or benefit, or that of his family, or for carrying on his trade or business, as is mentioned in the three last preceding sections of this Act.

CHARGING ORDERS.

And for the purpose of extending the powers over the property of lunatics given by section one hundred and sixteen of the said Act, (*q*) be it enacted as follows:

Extending Powers of charging Lunatic's Property for his Maintenance, Debts, and Costs.

XVI. Where it appears to the Lord Chancellor intrusted as aforesaid to be for the lunatic's benefit, he may by order direct any estate or interest of the lunatic in land or stock, either in possession, reversion, remainder, contingency, or expectancy, and either existing or which may exist at any future time, to stand and be charged with any monies advanced or to be advanced, or due or to become due, to any person for or in respect of any of the purposes or matters mentioned in the said section, and either with or without interest on such monies; and he may also by order direct any such estate and interest to be dealt with and disposed of in such manner as he shall consider expedient for any of the purposes aforesaid, or for securing any monies advanced or to be advanced for such purposes or any of them, and with or without interest for the same; and every charge and disposition directed or made by or in pursuance of any such order shall be valid and effectual to all intents and purposes, and shall take effect accordingly, subject only to any prior

(*o*) See "Statutes relating to Criminal Lunatics," *post*.

(*p*) *Harvey* v. *Trenchard*, 34 Beav. 240. This section contains no limit as to the amount.

(*q*) 16 & 17 Vict. c. 70, s. 116, *ante*.

charge to which the estate or interest affected thereby may at the date of such order be subject.

GENERAL.

All Deeds, Transfers, Payments, etc., made in pursuance of this Act to be valid and binding.—Indemnity to the Bank of England, etc.

XVII. Every conveyance, transfer, charge, or other disposition made or executed by virtue of this Act, and every payment made in pursuance of this Act, shall be valid to all intents, and binding upon all persons whomsoever; and this Act shall be a full indemnity and discharge to the Governor and Company of the Bank of England, their officers and servants, and all other persons respectively, for all acts and things done or permitted to be done in pursuance thereof, or of any order of the Lord Chancellor intrusted as aforesaid made or purporting to be made under this Act; and such acts and things respectively shall not be questioned or impeached in any court of law or equity to their detriment. (*r*)

Power to Masters to summon Witnesses.

XVIII. To give further and better effect to the fifty-fifth, (*s*) fifty-sixth, (*s*) and sixtieth sections (*s*) of the said Act, respecting the attendance of witnesses before the said Masters, the Masters may in the matter of any lunatic or alleged lunatic compel by summons the attendance of any person to give evidence before them, whether such person has or has not previously given evidence by affidavit; and every person so summoned shall be bound to attend as required by the summons, and give evidence before the said Masters, in like manner as is provided by the sixtieth section of the said Act in the case of persons who have given evidence by affidavit.

VISITING.

And with respect to the visiting of lunatics, (*t*) be it enacted as follows:

(*r*) 16 & 17 Vict. c. 70, ss. 143, 144, *ante*.

(*s*) See 16 & 17 Vict. c. 70, ss. 55, 56, 60, *ante*.

(*t*) See 16 & 17 Vict. c. 70, ss. 104–107, *ante;* and also ss. 16–24 of that Act, *ante*.

Duties of Visitors.

XIX. It shall be the duty of the visitors to visit persons of unsound mind within the meaning of this Act at such times and in such rotation and manner, and to make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangements for their maintenance and comfort, and otherwise respecting them, as the Lord Chancellor shall by general orders, or as the Lord Chancellor intrusted as aforesaid shall by special order in any particular case from time to time direct.

All Lunatics to be visited Four Times a Year.

XX. Provided always, that from and after the first day of October next every lunatic shall be personally visited and seen by one of the said visitors four times at least in every year, and such visits shall be so regulated as that the interval between successive visits to any such lunatic shall in no case exceed four months: provided always, that lunatics who are resident in licenced houses, asylums, or registered hospitals shall not necessarily be visited by any of the said visitors more than once in the year, unless the Lord Chancellor intrusted as aforesaid shall otherwise direct.

Visitors also to visit alleged Lunatics, and make a Report, etc., to the Lord Chancellor.

XXI. The visitors shall also visit such persons alleged to be insane, and shall make such inquiries and reports in reference to them as the Lord Chancellor intrusted as aforesaid may direct, and at the expiration of every six calendar months they shall report to the Lord Chancellor the number of visits which they shall have made, the number of patients they shall have seen, and the number of miles they shall have travelled during such months, and shall on the first day of January in each year make a return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other account; and a copy of such reports, showing the number of visits made, the number of patients seen, and the number of miles travelled, and also a copy of such return of sums received for travelling expenses, or upon any other account, shall be laid before Parliament on or before the first day of February in each year, if Parlia-

ment be then sitting, and if not, within twenty-one days next after the commencement of the next session of Parliament.

Sections 104 *and* 105 *of* 16 & 17 *Vict. c.* 70, *repealed.*

XXII. Sections one hundred and four and one hundred and five of the said Act (which sections relate to the visiting of lunatics) are hereby repealed.

OFFICERS IN LUNACY.

Power to the Lord Chancellor to allow Pensions to present Visitors, if desirous of retiring.

XXIII. The Lord Chancellor may, if he shall so think fit, on a petition presented to him for that purpose, order annuities, not exceeding one-half of their respective salaries, to be paid to the present medical visitors or either of them, in case they or either of them shall be desirous of retiring from the offices held by them, they having already attained the respective ages of seventy-eight and eighty-one years, and having served as such medical visitors for twenty-eight and twenty years respectively. (*u*)

Visitors to hold Office during good Behaviour.—Visitors to receive Salaries, but not to practice in their Professions.

XXIV. The medical visitors to be hereafter appointed and the legal visitor shall hold their offices during their good behaviour, but may be removed therefrom by the Lord Chancellor in case of misconduct or neglect in the discharge of their duties, or of their being disabled from performing the same, and they shall receive salaries of fifteen hundred pounds each, and shall not be in any way engaged in the practice of their respective professions. (*v*)

Clerks to the Visitors.

XXV. Such clerks to the visitors may from time to time be appointed by the Lord Chancellor and at such salaries as the Lord Chancellor, with the approbation of the Commissioners of Her Majesty's Treasury, shall from time to

(*u*) See 16 & 17 Vict. c. 70, s. 16, *ante.*
(*v*) See 16 & 17 Vict. c. 70, ss. 16, 18, 19, *ante.*

time direct; so much of section twenty-three of the said Act as refers to the clerk of the secretary to the said visitors is hereby repealed. (*w*)

Superannuation Allowances to Officers in Lunacy.

XXVI. The Lord Chancellor may, if he shall so think fit, order to be paid to any officer who has served for twenty years in any office or offices in lunacy, and who shall be above sixty years of age, and shall be desirous of retiring, or who is disabled by permanent infirmity from the performance of his duties, such superannuation allowance, not exceeding two-thirds of the salary payable to such officer or person at the time of his resignation, as the Lord Chancellor, with the approbation of the Commissioners of Her Majesty's Treasury, may approve. (*x*)

XXVII. [Repealed by 32 & 33 Vict. c. 91, s. 34.] (*y*)

Registrar to hold Office during good Behaviour.

XXVIII. The Registrar in Lunacy (*z*) shall hold his office during good behaviour, and may be removed therefrom by the Lord Chancellor in case of misconduct or neglect in the discharge of his duties or his being disabled from performing the same.

ORDERS.

And with respect to orders in lunacy, be it enacted as follows:

Office Copies of Orders to be acted upon by Accountant-General and others.

XXIX. The Accountant-General (*a*) and all other persons, and the Governor and Company of the Bank of England, shall act upon all office copies of orders in lunacy pur-

(*w*) See 16 & 17 Vict. c. 70, s. 23, *ante;* and s. 107, *ante.*
(*x*) See 16 & 17 Vict. c. 70, ss. 12, 13, 15, *ante.*
(*y*) See 16 & 17 Vict. c. 70, s. 25. *ante.*
(*z*) See 16 & 17 Vict. c. 70, s 10, *ante.*
(*a*) As to the abolition of the office of Accountant-General of the Court of Chancery, and the substitution of the Paymaster-General, see 35 & 36 Vict. c. 44, passed on 6th August, 1872.

porting to be signed by the Registrar in Lunacy, (*b*) and sealed with the seal of his office, in the same manner as such persons are by section one hundred and one of the said Act (*c*) required to act upon office copies of reports confirmed by fiat.

(*b*) See 16 & 17 Vict. c. 70, s. 10, *ante*.
(*c*) See 16 & 17 Vict. c. 70, s. 101, *ante*.

36 & 37 Vict. c. 66.

An Act for the Constitution of a Supreme Court, and for other purposes relating to the better administration of Justice in England; and to authorise the transfer to the Appellate Division of such Supreme Court of the jurisdiction of the Judicial Committee of Her Majesty's Privy Council.

[5*th August*, 1873.

XVII. There shall not be transferred to or vested in the said High Court of Justice, by virtue of this Act

* * * * *

(3). Any jurisdiction usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind. (*a*)

XVIII. The Court of Appeal established by this Act shall be a superior Court of Record, and there shall be transferred to and vested in such Court all jurisdiction and powers of the Courts following (that is to say):

* * * * *

(5.) All jurisdiction vested in or capable of being exercised by Her Majesty in Council, or the Judicial Committee of Her Majesty's Privy Council, upon appeal . . . from any order in lunacy made by the Lord Chancellor, or any other person having jurisdiction in lunacy.

(*a*) See 38 & 39 Vict. c. 77, s. 7, *post*.

38 & 39 Vict. c. 77.

An Act to amend and extend the Supreme Court of Judicature Act, 1873.

[11*th August*, 1875.

VII. Any jurisdiction usually vested in the Lords Justices of Appeal in Chancery, or either of them, in relation to the persons and estates of idiots, lunatics, and persons of unsound mind, shall be exercised by such Judge or Judges of the High Court of Justice or Court of Appeal as may be intrusted by the sign manual of Her Majesty or Her successors with the care and commitment of the custody of such persons and estates; and all enactments referring to the Lords Justices as so intrusted shall be construed as if such Judge or Judges so intrusted had been named therein instead of such Lords Justices; provided that each of the persons who may at the commencement of the principal Act (*a*) be Lords Justices of Appeal in Chancery shall, during such time as he continues to be a Judge of the Court of Appeal, and is intrusted as aforesaid, retain the jurisdiction vested in him in relation to such persons and estates as aforesaid.

XXVI. [Provides for the fixing and collection of fees in the High Court of Justice and in the Court of Appeal, "including the per-centage on estates of lunatics."] (*b*)

XXXI. [Abolishes the office of secretary to the visitors of lunatics.] (*c*)

(*a*) *i.e.*, 36 & 37 Vict. c. 66, *ante*.

(*b*) See 16 & 17 Vict. c. 70, ss. 26–33, *ante*; and 32 & 33 Vict. c. 91.

(*c*) See 16 & 17 Vict. c. 70, s. 22, and note (*a*) thereon, *ante*.

Note also the following Rules of Court in the First Schedule to the Act:—

Order IX. (5); XIII. (1); XVIII.; XIX. (17); XXXIV. (4, 5); Appendix (C), No. 23.

I. Statutes relating to Private Lunatics.

b. Lunatics under Certificates.

3. Single Patients in Unlicenced Houses:—(*a*)

		PAGE
8 & 9 Vict. c. 100	4 Aug. 1845	182
15 & 16 Vict. c. 48	30 June 1852	261
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97 [s. 86]	20 Aug. 1853	409
17 & 18 Vict. c. 114	11 Aug. 1854	468
25 & 26 Vict. c. 111	7 Aug. 1862	481

4. Registered Hospitals and Licenced Houses:—(*b*)

8 & 9 Vict. c. 100	4 Aug. 1845	182
15 & 16 Vict. c. 48	30 June 1852	261
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97	20 Aug. 1853	336
17 & 18 Vict. c. 114	11 Aug. 1854	468
18 & 19 Vict. c. 105	14 Aug. 1855	470
25 & 26 Vict. c. 111	7 Aug. 1862	481

5. County and Borough Asylums:—(*c*)

8 & 9 Vict. c. 100	4 Aug. 1845	182
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97	20 Aug. 1853	336
17 & 18 Vict. c. 114	11 Aug. 1854	468
18 & 19 Vict. c. 105	14 Aug. 1855	470
19 & 20 Vict. c. 87	29 July 1856	480
25 & 26 Vict. c. 111	7 Aug. 1862	481
26 & 27 Vict. c. 110	28 July 1863	512

6. Lunatics wandering at large, or not under proper care:—(*d*)

16 & 17 Vict. c. 97	20 Aug. 1853	336

[See especially ss. 68, 69, 70, 94, 104.]

c. Lunatics from India.

7. Removal to United Kingdom:—(*e*)

14 & 15 Vict. c. 81 [ss. 5, 6, 7]	7 Aug. 1851	597

(*a*) See Introduction, *ante*, pp. 28–37.
(*b*) See Introduction, *ante*, pp. 37–78.
(*c*) See Introduction, *ante*, pp. 78–80.
(*d*) See Introduction, *ante*, pp. 80–92.
(*e*) See Introduction, *ante*, p. 92.

8 & 9 Vict. c. 100.

An Act for the Regulation of the Care and Treatment of Lunatics.

[*4th August*, 1845.

The following Acts repealed, except as they repeal other Acts:— 2 & 3 *W. IV. c.* 107; 3 & 4 *W. IV. c.* 64; 5 & 6 *W. IV. c.* 22; 1 & 2 *Vict. c.* 73; 5 *Vict. c.* 4; 5 & 6 *Vict. c.* 87.—*Proviso that present Visitors and Clerk shall act under this Act till new ones are appointed: and that Licences heretofore granted shall remain in force, unless, etc.*

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act an Act passed in the session of Parliament holden in the second and third years of the reign of His late Majesty King William the Fourth, (*a*) intituled "An Act for regulating for three years, and from thence until the end of the then next session of Parliament, the Care and Treatment of Insane Persons in England;" and an Act passed in the session of Parliament holden in the third and fourth years of the reign of His said late Majesty, intituled "An Act to amend an Act of the second and third year of His present Majesty, for regulating the Care and Treatment of Insane Persons in England;" and an Act passed in the session of Parliament holden in the fifth and sixth years of the reign of His said late Majesty, intituled "An Act to continue for three years, and from thence to the end of the then next session of Parliament, two Acts of the second and third year and the third and fourth year of His present Majesty, relating to the Care and Treatment of Insane Persons in England;" and an Act

(*a*) Not necessary to obtain an order under 8 & 9 Vict. c. 100, for detaining a lunatic confined under 2 & 3 Wm. iv. c. 107; *re* Fell, 3 D. & L. 373.

passed in the session of Parliament holden in the first and second years of the reign of Her present Majesty, intituled "An Act to continue for three years, and from thence to the end of the then next session of Parliament, two Acts relating to the Care and Treatment of Insane Persons in England;" and an Act passed in the session of Parliament holden in the fifth year of the reign of Her said present Majesty, intituled "An Act to continue for three years, and from thence to the end of the then next session of Parliament, two Acts relating to the Care and Treatment of Insane Persons in England;" and an Act passed in the session of Parliament holden in the fifth and sixth years of the reign of Her said present Majesty, intituled "An Act to amend, and continue for three years, and from thence to the end of the next session of Parliament, the Laws relating to Houses licenced by the Metropolitan Commissioners and Justices of the Peace for the Reception of Insane Persons, and for the inspection of County Asylums and Public Hospitals for the Reception of Insane Persons," shall be and the same are hereby repealed, save and except so far as they or any of them repeal any other Act: provided always, that until the appointment for any jurisdiction of visitors and their clerk under the provisions of this Act, (*b*) the visitors and clerk appointed for such jurisdiction under the said repealed Acts or any of them shall respectively have and perform the powers, authorities, and duties which they would have respectively had or performed if appointed under this Act: provided also, that all licences heretofore granted shall remain in force for the periods for which they were respectively granted, unless revoked as hereinafter provided; (*c*) and that all orders, matters, and things which have been granted, made, done, or directed to be done in pursuance of the said repealed Acts, or any of them shall be and remain as good, valid, and effectual to all intents and purposes as if the said repealed Acts had not been repealed, except so far as such orders, matters or things are expressly made void or affected by this Act; (*d*) and that all fees, charges, and expenses which have become payable under the said repealed

(*b*) ss. 17–21, *post*.
(*c*) ss. 41, 42, *post*.
(*d*) As to offenses, see s. 107, *post*.

Acts or any of them shall be payable in the same manner and from the same funds as would have been applicable thereto in case such Acts had not been repealed.

Commissioners in Lunacy under 5 & 6 *Vict. c.* 84, *to be henceforth called "The Masters in Lunacy."*

II. And be it enacted, that the persons already appointed and hereafter to be appointed under an Act passed in the session of Parliament holden in the fifth and sixth years of the reign of Her present Majesty, entitled "An Act to alter and amend the Practice and Course of Proceeding under Commissions in the nature of Writs De lunatico inquirendo," (*e*) whereby the Lord Chancellor is empowered to appoint two persons, to be called "The Commissioners in Lunacy," shall henceforth be and be called "The Masters in Lunacy," and shall take the same rank and precedence as the Masters in Ordinary of the High Court of Chancery. (*f*)

Appointment of "The Commissioners in Lunacy."

III. And be it enacted, that the Right Honourable Lord Ashley, the Right Honourable Lord Seymour, the Right Honourable Robert Vernon Smith, Robert Gordon of Lewiston, in the county of Dorset, Esquire, Francis Barlow of Montagu Square, Esquire, Thomas Turner of Curzon Street, Esquire, Henry Herbert Southey of Harley Street, Esquire, John Robert Hume of Curzon Street aforesaid, Esquire, Bryan Waller Procter of Gray's Inn, Esquire, James William Mylne of Lincoln's Inn, Esquire, and John Hancock Hall of the Middle Temple, Esquire (which said Thomas Turner, Henry Herbert Southey, and John Robert Hume, and no other of the said persons, are physicians, and which said Bryan Waller Procter, James William Mylne, and John Hancock Hall, and no other of the said persons, are practising barristers at law of ten years standing at the bar and upwards), and their respective successors, to be appointed as hereinafter provided, (*g*) shall be Commissioners for the pur-

(*e*) As to the repeal of this Act (save certain sections), see 16 & 17 Vict. c. 70, s. 1, *ante;* and schedule I, *ante.* For the reason of the change of name, see the following section (s. 3) of the present statute:—also 16 & 17 Vict. c. 70, s. 11, *ante.*

(*f*) See 16 & 17 Vict. c. 70, s. 6, *ante.*

(*g*) s. 4, *post.*

poses of this Act, to be called "The Commissioners in Lunacy;" and that such Commissioners for the time being shall respectively hold their offices during good behaviour, and shall not, so long as they shall remain such Commissioners, and receive any salary under this Act, accept, hold, or carry on any other office or situation, or any profession or employment, from which any gain or profit shall be derived; and that there shall be paid to each of the six Commissioners for the time being who shall be physicians, surgeons, or barristers of five years standing and upwards, (*h*) out of the monies or funds hereinafter mentioned, (*i*) over and above their respective travelling and other expenses whilst employed in visiting any houses, hospitals, asylums, gaols, workhouses, or other places, in pursuance of this Act, the yearly salary of one thousand and five hundred pounds, by four equal quarterly payments, on the twenty-ninth day of September, the twenty-fifth day of December, the twenty-fifth day of March, and the twenty-fourth day of June in every year, the first of each such payments (or a proportionate part thereof, to be computed, in the case of the Commissioners appointed by this Act, from the passing of the Act, and in case of the Commissioners to be appointed as hereinafter provided, from the time of the respective appointments of such Commissioners), to be made to such Commissioners respectively on such of the same days of payment as shall first happen after the passing of this Act, or after the dates of their respective appointments, as the case may be.

In case of Death, Disqualification, Refusal, or Inability of Commissioners, others to be appointed.

IV. And be it enacted that as often as any Commissioner appointed by this Act or to be appointed under this present provision shall die, or be removed for ill-behaviour, or be disqualified, or resign or refuse to act, or become unable by illness or otherwise to perform the duties or exercise the powers of this Act, the Lord Chancellor shall appoint a person to be a Commissioner in the room of the Commissioner who shall die, or be removed, or be disqualified, or resign, or refuse or become unable to act as aforesaid, but so that every person so ap-

(*h*) Sec s. 114, *post;* also 16 & 17 Vict. c. 96, s. 39, *post.*
(*i*) ss. 33–35, *post.*

pointed in the room of a physician shall be a physician or surgeon, and every person so appointed in the room of a barrister of five years standing at the bar and upwards shall be a practising barrister of not less than five years standing at the bar, (*j*) and every person so appointed in the room of any other Commissioner shall be neither a physician nor a surgeon, nor a practising barrister; and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if there were no such vacancy.

Provision for retiring Pension to incapacitated Commissioners.—4 & 5 *W. IV. c.* 24.

V. And be it enacted, that any superannuation allowance to be granted to any Commissioner appointed or to be appointed under this Act shall be granted only in respect of services performed under this Act, and shall be subject to the provisions of an Act passed in the fourth and fifth years of His late Majesty King William the Fourth, intituled "An Act to alter, amend, and consolidate the Laws for regulating the Pensions, Compensation, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service," so far as such provisions relate to officers and clerks who had entered or might enter the public service subsequent to the fourth day of August one thousand eight hundred and twenty-nine. (*k*)

Commissioners to take the following Oath.

VI. And be it enacted, that every person hereby or hereafter appointed a Commissioner under this Act shall, before he acts in the execution of his duty as a Commissioner, take an oath (*l*) to the following effect; (that is to say,)

"I, *A.B.*, do swear, that I will discreetly, impartially, and faithfully execute all the trusts and powers committed unto me by virtue of an Act of Parliament made in the ninth year of the reign of Her Majesty Queen Victoria, intituled [*here insert the title of the Act*]; and that I will keep secret all such

(*j*) See s. 114, *post;* also 16 & 17 Vict. c. 96, s. 39, *post.*

(*k*) See also the Amending and Repealing Acts, 20 & 21 Vict. c. 37; 22 Vict. c. 26; 32 & 33 Vict. c. 60; and 37 and 38 Vict. c. 35; and as to the application of those Acts to the cases comprised in the 8 & 9 Vict. c. 100, s. 5, see 22 Vict. c. 26, s. 15, and schedule A.

(*l*) As to affirmation, see s. 114, *post.*

matters as shall come to my knowledge in the execution of my office (except when required to divulge the same by legal authority, or so far as I shall feel myself called upon to do so for the better execution of the duty imposed on me by the said Act). (*m*) So help me God."

Which oath it shall be lawful for the Lord Chancellor to administer to every such Commissioner; and any three of the Commissioners who shall have previously taken the oath are hereby authorised to administer such oath to any other Commissioner.

Commissioners to have a Common Seal.

VII. And be it enacted, that the Commissioners shall cause to be made a seal of the commission, and shall cause to be sealed or stamped therewith all licences, orders, and instruments granted or made, or issued, or authorised by the Commissioners, in pursuance of this Act, except such orders or instruments as are hereinafter required or directed to be given or signed and sealed by one Commissioner or two Commissioners; and all such licences, orders, and instruments, or copies thereof, purporting to be sealed or stamped with the seal of the commission, shall be received as evidence of the same respectively, and of the same respectively having been granted, made, issued, or authorised by the Commissioners, without any further proof thereof; and no such licence, order, or instrument, or copy thereof, shall be valid, or have any force or effect, unless the same shall be so sealed or stamped as aforesaid. (*n*)

Commissioners to elect a permanent Chairman.

VIII. And be it enacted, that the Commissioners or any five of them shall, as soon as may be after the passing of this Act, meet at the usual office or place of business now occupied or used by the Metropolitan Commissioners in Lunacy, or at such other place as the Lord Chancellor shall direct, and elect one of the same Commissioners (not being a physician or a barrister receiving any salary by virtue of this Act) to be the permanent chairman of the Commission; and in case such permanent chairman, or any other permanent chairman who shall thereafter be elected in pursuance of

(*m*) *Hill* v. *Philp*, 7 Exch. 232.
(*n*) See also 8 & 9 Vict. c. 113; and 14 & 15 Vict. c. 99.

this provision shall die, or decline or become incapable to act as chairman, or shall cease to be a Commissioner, then and as often as the same shall happen the Commissioners for the time being, or any five of them, at any meeting to be specially summoned for that purpose, shall elect another person to be the permanent chairman of the Commission in the place of the chairman who shall so die, or decline or become incapable to act, or cease to be a Commissioner as aforesaid; and in case the permanent chairman for the time being shall be absent from any meeting it shall be lawful for the majority of the Commissioners present at any such meeting to elect a chairman for that meeting; and in all cases every question shall be decided by a majority of voters (the chairman, whether permanent or temporary, having a vote), and in the event of an equality of votes the chairman for the time being shall have an additional or casting vote. (*o*)

Appointment of Secretary.

IX. And be it enacted, that Robert Wilfred Skeffington Lutwidge of Lincoln's Inn, Esquire, shall be the Secretary to the Commissioners; and that the said Robert Wilfred Skeffington Lutwidge, and every secretary to be hereafter appointed, shall be removable from his office by the Lord Chancellor, on the application of the Commissioners; and that as often as the said Robert Wilfred Skeffington Lutwidge, or any secretary to be appointed under this present provision, shall die, or resign, (*p*) or be removed from his office, the Commissioners, with the approbation of the Lord Chancellor, shall appoint a person to be secretary in the room of the said Robert Wilfred Skeffington Lutwidge, or other the secretary who shall die or resign or be removed as aforesaid; and that the secretary for the time being shall, in the performance of all his duties, and in all respects, be subject to the inspection, direction, and control of the Commissioners; and that there shall be paid to the secretary for the time being, out of the

(*o*) As to the power of the Commissioners to make regulations for the discharge of their own duties and those of their officers, sec s. 70, *post*.

(*p*) Mr. Lutwidge resigned the office of secretary, and was appointed one of the Commissioners in Lunacy, on the death of Mr. Mylne, in 1855. Mr. Lutwidge died in May, 1873, from the effects of an attack made upon him by one of the patients in a lunatic asylum, during a visit of inspection (see 28th Report of the Commissioners, 1874, p. 1).

monies and funds hereinafter mentioned, (*q*) the yearly salary of eight hundred pounds, by four equal quarterly payments, on the twenty-ninth day of September, the twenty-fifth day of December, the twenty-fifth day of March, and the twenty-fourth day of June in every year, the first of such payments (or a proportionate part thereof, to be computed, in the case of the said Robert Wilfred Skeffington Lutwidge, from the passing of this Act, and in case of every other secretary from the time of his appointment), to be made to the said Robert Wilfred Skeffington Lutwidge on such of the same days of payment as shall first happen after the passing of this Act, and to every other secretary for the time being on such of the same days of payment as shall first happen after his appointment.

Provision for retiring Pension to Secretary.—4 & 5 *W. IV. c.* 24.

X. And be it enacted, that any superannuation allowance to be granted to any secretary appointed or to be appointed under this Act shall be granted only in respect of services performed under this Act, and shall be subject to the provisions of an Act passed in the fourth and fifth years of His late Majesty King William the Fourth, intituled "An Act to alter, amend, and consolidate the Laws for regulating the Pensions, Compensation, and Allowances to be made to Persons in respect of their having held Civil Offices in his Majesty's Service," so far as such provisions relate to officers and clerks who had entered or might enter the public service subsequent to the fourth day of August one thousand eight hundred and twenty-nine. (*r*)

Power for the Commissioners to appoint Two Clerks.

XI. And be it enacted, that it shall be lawful for the Commissioners to appoint, during pleasure, any two persons as clerks to the Commissioners, and to allow to such two clerks any such yearly or other salaries (not exceeding in the whole the yearly sum of two hundred pounds for such two clerks) as the Commissioners shall think proper; and further, that it shall be lawful for the Commissioners, at any time hereafter,

(*q*) ss. 33-35, *post.*

(*r*) See also the Amending and Repealing Acts, 20 & 21 Vict. c. 37; 22 Vict., c. 26; 32 & 33 Vict. c. 60; and 37 & 38 Vict. c. 35; and as to the application of those Acts to the cases comprised in 8 & 9 Vict. c. 100, s. 10, see 22 Vict. c. 26, s. 15, and schedule A.

in case they shall find it expedient so to do, for the due performance of the business of the commission, with the consent of the Lord High Treasurer, or of the Commissioners of Her Majesty's Treasury, or of any three or more of them, to appoint one or two other clerks (in addition to the two clerks firstly hereinbefore mentioned), and to allow to such one or two additional clerk or clerks any such yearly or other salaries as the Commissioners shall think fit (not exceeding in the whole the yearly sum of two hundred pounds); and such salaries shall be paid out of the monies or funds hereinafter mentioned. (*s*)

Secretary and Clerks to take an Oath.

XII. And be it enacted, that every person appointed to be secretary or clerk as aforesaid shall, before he shall act as such secretary or clerk, take the following oath, (*t*) to be administered by any one of the Commissioners:

"I, *A.B.*, do swear, that I will faithfully execute all such trusts and duties as shall be committed to my charge as Secretary to the Commissioners in Lunacy [*or* as Clerk to the Commissioners in Lunacy, *as the case may be*]; and that I will keep secret all such matters as shall come to my knowledge in the execution of my office (except when required to divulge the same by legal authority. (*u*) So help me GOD."

Clerk of the Metropolitan Commissioners to deliver all Documents to the Commissioners under this Act.

XIII. And be it enacted, that immediately after the passing of this Act the Clerk to the Metropolitan Commissioners in Lunacy appointed under the said Act of the second and third years of the reign of His late Majesty King William the Fourth, or under any of the other Acts hereby repealed, (*v*) shall forthwith deliver up every book, paper, and document, and all goods, property, and effects which may be in his possession by virtue of his said office, or in consequence thereof, or connected with the business thereof, to the Commissioners in Lunacy hereby appointed; and every book, paper, and document, and all goods, property, and effects, respectively,

(*s*) ss. 33-35, *post*.
(*t*) As to affirmation, see s. 114, *post*.
(*u*) *Hill* v. *Philp*, 7 Exch. 232.
(*v*) See s. 1, *ante*.

which shall be so delivered unto or shall hereafter come into the possession of the Commissioners in Lunacy by virtue of their office, shall thereupon be vested in and shall be deemed to be the property of the Commissioners in Lunacy for the time being.

Jurisdiction within which Commissioners are to grant Licences, and termed their immediate Jurisdiction, defined.

XIV. And be it enacted, that it shall be lawful for the Commissioners (if and when they shall think fit) to grant a licence to any person to keep a house for the reception of lunatics, or of any sex or class of lunatics, within the places following; (that is to say), the cities of London and Westminster, the county of Middlesex, the borough of Southwark, and the several parishes and places hereinafter mentioned; (that is to say), Brixton, Battersea, Barnes, Saint Mary Magdalen Bermondsey, Christ Church Clapham, Saint Giles Camberwell, Dulwich, Saint Paul Deptford, Gravenay, Kew Green, Kennington, Saint Mary Lambeth, Mortlake, Merton, Mitcham, Saint Mary Newington, Norwood, Putney, Peckham, Saint Mary Rotherhithe, Roehampton, Streatham, Stockwell, Tooting, Wimbledon, Wandsworth, and Walworth, in the county of Surrey; Blackheath, Charlton, Deptford, Greenwich, Lewisham, Lee, Southend, and Woolwich, in the county of Kent; and East Ham, Layton, Laytonstone, Low Layton, Plaistow, West Ham, and Walthamstow, in the county of Essex; and also within every other place (if any) within the distance of seven miles from any part of the said cities of London or Westminster, or of the said borough of Southwark; all which cities, county, borough, parishes and places aforesaid, shall be and are hereafter referred to as the immediate jurisdiction of the Commissioners.

Commissioners to hold quarterly and special Meetings for granting Licences.

XV. And be it enacted, that the Commissioners or some five of them shall meet at the usual office or place of business which shall for the time being be occupied or used by the said Commissioners, or at such other place as the Lord Chancellor may direct, on the first Wednesday in the months of February, May, July, and November, in every year, in

order to receive applications from persons requiring houses to be licenced for the reception of lunatics within the immediate jurisdiction of the Commissioners, and (if they shall think fit) to licence the same; (*w*) and in case on any such occasion five Commissioners shall not be present, the meeting shall take place on the next succeeding Wednesday, and so on weekly until five Commissioners shall be assembled; and the Commissioners assembled at every such meeting shall have power to adjourn such meeting from time to time and to such place as they shall see fit: provided always, nevertheless, that it shall be lawful for any five of the Commissioners at any other time, at any meeting duly summoned under the provisions in that behalf hereinafter contained, (*x*) to receive applications from persons requiring houses to be licenced as aforesaid, and, if they shall think fit, to licence the same.

Provision for summoning Special Meetings.

XVI. And be it enacted, that when and so often as any Commissioner shall by writing under his hand require the secretary to convene a meeting of the Commissioners for a purpose or purposes specified in such writing, or for the general despatch of business, such secretary is hereby required to convene such meeting by summons to the other Commissioners, or such of them as shall be then in England and shall have an address known to the secretary, and to give them, as far as circumstances will admit, not less than twenty-four hours' notice of the place, day and hour, where and on and at which such meeting is intended to be held, and also to state in the summons the purpose or purposes of such meeting, as specified by the Commissioner requiring the same to be convened; and then and in every such case it shall be lawful for any three of the Commissioners to assemble themselves to consider, and (if they shall think fit) to execute the purpose or purposes of such meeting: provided always, nevertheless, that nothing shall be done at any such meeting, at which less than five Commissioners shall be present, which by this Act is required to be done by five Commis-

(*w*) As to the practice of the Commissioners, see Introduction, *ante*, pp. 47–50.

(*x*) s. 16, *post*.

sioners: (*y*) provided also, that every such meeting shall, as far as circumstances will admit, be held at the usual office or place of business of the Commissioners.

The Justices of the Peace in General or Quarter Sessions in all other parts of England to licence Houses for the reception of Lunatics, and to appoint Visitors.

XVII. And be it enacted, that in all places not being within the immediate jurisdiction of the Commissioners the justices for the county or borough (*z*) assembled in general or quarter sessions (*a*) shall have the same authority within their respective counties or boroughs to licence houses for the reception of lunatics as the Commissioners within their immediate jurisdiction; (*b*) and that the said justices shall, at the Michaelmas general or quarter sessions in every year, (*a*) appoint three or more justices, and also one physician, surgeon, or apothecary, or more, (*c*) to act as visitors of every or any house or houses licenced for the reception of lunatics within the said counties or boroughs (*z*) respectively; and such visitors shall at their first meeting take the oath (*d*) required by this Act to be taken by the Commissioners, *mutatis mutandis*, such oath (*d*) to be administered by a justice.

For Appointment of a Visitor in the place of one dying, being unable, disqualified, etc.

XVIII. And be it enacted, that in case at any time of the

(*y*) See s. 15, *ante;* and also s. 70, *post;* and as to the meaning of the word "Board," in relation to the meetings of the Commissioners, see 16 & 17 Vict. c. 96, s. 36, *post*.

(*z*) See s. 115, *post;* and also, as to the consent of the Recorder, see s. 31, *post*.

(*a*) As to the times for holding the quarter sessions in counties, see 11 Geo. iv. and 1 Wm. iv. c. 70, s. 35, which enacts that "the justices of the peace in every county, riding, or division, for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the 11th day of October, in the first week after the 28th day of December, in the first week after the 31st day of March, and in the first week after the 24th day of June;" and the 4 & 5 Wm. iv. c. 47, which allows the justices a discretionary power to fix the time for holding the spring quarter sessions, but so that it shall not be earlier than the 7th day of March, nor later than the 22nd day of April.

(*b*) s. 14, *ante*.

(*c*) See s. 20, *post*, and note (*x*) to s. 57, *post*.

(*d*) s. 6, *ante;* and as to affirmation, see s. 114, *post*.

death, inability, disqualification, resignation, or refusal to act of any person so appointed a visitor as aforesaid, it shall be lawful for the justices of the county or borough, (*e*) at any general or quarter sessions, to appoint a visitor in the room of the person who shall die, or be unable or be disqualified, or resign, or refuse to act as aforesaid.

Lists of Visitors to be published by the Clerk of the Peace in a Newspaper, and to be sent to the Commissioners.—Penalty for Default.

XIX. And be it enacted, that a list of the names, places of abode, occupations, or professions of all visitors appointed as hereinbefore is directed shall, within fourteen days from the date of their respective appointments, be published by the clerk of the peace of the county or borough for which they shall be respectively appointed in some newspaper commonly circulated within the same county or borough, and shall, within three days from the date of their respective appointments, be sent by the clerk of the peace to the Commissioners; and every clerk of the peace making default in either of the respects aforesaid shall for every such default forfeit a sum not exceeding two pounds. (*f*)

Every Visitor, being a Physician, Surgeon, or Apothecary, to be remunerated.

XX. And be it enacted, that every such visitor as aforesaid, being a physician, surgeon, or apothecary, (*g*) shall be paid out of the monies or fund hereinafter mentioned (*g*) for every day during which he shall be employed in executing the duties of this Act such sum as the justices of the county or borough (*h*) shall in general or quarter sessions direct.

Clerk of the Peace, or some other Person, to be appointed to be Clerk to Visitors; his Duties and Remuneration.

XXI. And be it enacted, that the clerk of the peace, or

(*e*) See s. 115, *post*; and also, as to the consent of the Recorder, see s. 31, *post*.

(*f*) s. 106, *post*; and s. 108, *post*.

(*g*) s. 17, *ante*; and ss. 36-38, *post*.

(*h*) See s. 115, *post*. The terms of s. 31, *post*, do not appear to require the Recorder's consent to the remuneration of the visitor, but only to his appointment.

ss. 36 & 38

some other person to be appointed by the justices (*i*) for the county or borough (*j*) in general or quarter sessions, shall act as clerk to the visitors so appointed as aforesaid, and such clerk shall summon the visitors to meet at such time and place, for the purpose of executing the duties of this Act, as the said justices in general or quarter sessions shall appoint; and every such appointment, summons, and meeting shall be made and held as privately as may be, and in such manner that no proprietor, superintendent, or person interested in or employed about or connected with any house to be visited shall have notice of such intended visitation; and such clerk to the visitors shall, at their first meeting, take the oath (*k*) required by this Act to be taken by the secretary of the Commissioners, *mutatis mutandis*, such oath (*k*) to be administered by one of the visitors, being a justice; and the name, place of abode, occupation, and profession of the clerk to the visitors (whether the same shall be the clerk of the peace or any other person), shall within fourteen days after the appointment be published by the clerk of the peace for the county or borough in some newspaper commonly circulated therein, and within three days from the date of the appointment be communicated by the said clerk of the peace to the Commissioners; and every clerk of the peace making default in either of the respects aforesaid shall for every such default forfeit a sum not exceeding two pounds; (*l*) and every such clerk to the visitors shall be allowed such salary or remuneration for his services (to be paid out of the monies or funds hereinafter mentioned)(*m*) as the justices for the county or borough (*n*) shall in general or quarter sessions direct.

Provision for Assistants to the Clerk of the Visitors.

XXII. And be it enacted, that if the clerk of any visitors

(*i*) It will be observed that this appointment is to be made by the justices, and not by the visitors.

(*j*) See s. 115, *post;* and also, as to the consent of the Recorder, see s. 31, *post.*

(*k*) s. 12, *ante;* and as to affirmation, see s. 114, *post.*

(*l*) s. 106, *post;* and s. 108, *post.*

(*m*) ss. 36-38, *post.*

(*n*) By s. 31, *post*, the Recorder's consent is required to the appointment of the clerk, but (apparently) not to his remuneration. See s. 115, *post.*

shall at any time desire to employ an assistant in the execution of the duties of his office, such clerk shall certify such desire and the name of such assistant to one of the visitors, being a justice; and if such visitor shall approve thereof he shall administer the following oath (*o*) to such assistant:

Oath of Assistant.

"I, *A.B.*, do solemnly swear, that I will faithfully keep secret all such matters and things as shall come to my knowledge in consequence of my employment as assistant to the clerk of the visitors appointed for the county [*or* borough] of by virtue of an Act of Parliament passed in the ninth year of the reign of Her Majesty Queen Victoria, intituled [*here insert the title of the Act*], unless required divulge the same by legal authority. (*p*)

"So help me GOD."

and such clerk may thereafter, at his own cost, employ such assistant.

Persons interested in any Licenced House, or being Medical Attendant on any Patient therein, disqualified to act as Commissioner, Visitor, Secretary, Clerk, or Assistant.—Disqualified persons acting, a misdemeanor.—Physicians, etc., contravening, penalty £10.

XXVIII. And be it enacted, that no person shall be or act as a Commissioner, or visitor, or secretary, or clerk to the Commissioners, or clerk or assistant clerk to any visitors, or be in granting any licence, (*q*) who shall then be, or shall within one year then next preceding have been directly or indirectly interested in any house licenced for the reception of lunatics, or the profits of such reception; and no physician or surgeon (being a Commissioner), and no physician, surgeon or apothecary (being a visitor), shall sign any certificate for the admission of any patient into any licenced house or

(*o*) s. 12, *ante;* and as to affirmation, see s. 114, *post.*

(*p*) *Hill* v. *Philp*, 7 Exch. 232.

(*q*) This expression will include justices of the peace, though not mentioned by name: see s. 17.

hospital, (*r*) or shall professionally attend (*s*) upon any patient in any licenced house or hospital, unless he be directed to visit such patient by the person upon whose order such patient has been received into such licenced house or hospital, or by the Lord Chancellor, or Her Majesty's principal Secretary of State for the time being for the Home Department, or by a committee appointed by the Lord Chancellor; and if any such Commissioner, or visitor, or secretary or clerk to the Commissioners, or clerk or assistant clerk to any visitors, shall after his appointment be or become so interested in any house licenced for the reception of lunatics, or the profits of such reception, such Commissioner, visitor, secretary, or clerk, or assistant clerk, as the case may be, shall immediately thereupon be disqualified from acting and shall cease to act in such capacity; and if any person, being disqualified as aforesaid, shall take the office of Commissioner, visitor, secretary, clerk, or assistant clerk, or being a Commissioner, visitor, secretary, clerk, or assistant clerk, shall become disqualified as aforesaid, and shall afterwards continue to act in such capacity, such person shall be guilty of a misdemeanor; and if any physician or surgeon (being a Commissioner), or any physician, surgeon, or apothecary (being a visitor), shall sign any certificate for the admission of any patient into any licenced house or hospital (except as aforesaid), such physician, surgeon, or apothecary (as the case may be), shall for each offence against this provision forfeit the sum of ten pounds. (*t*)

Fourteen Days' previous Notice of intended Application for and plan of Licenced House to be given to the Commissioners or Clerk of the Peace.

XXIV. And be it enacted, that every person (*u*) who shall desire to have a house licenced for the reception of lunatics shall give a notice, if such house be situate within

(*r*) See also 16 & 17 Vict. c. 96, s. 4, *post;* and s. 12, *post;* and 25 & 26 Vict. c. 111, s. 24, *post.*

(*s*) See also s. 3, *ante;* by which the Medical Commissioners are precluded from practising their profession.

(*t*) s. 106, *post.*

(*u*) It seems that several persons may join in the application, and receive one licence (see s. 39, *post;* and 16 & 17 Vict. c. 96, ss. 1, 2, *post*).

the immediate jurisdiction of the Commissioners, to the Commissioners, and if elsewhere, to the clerk of the peace for the county or borough in which such house is situate, fourteen clear days at the least (*v*) prior to some quarterly or other meeting of the Commissioners, (*w*) or to some general or quarter sessions for such county or borough, (*x*) as the case may be; and such notice shall contain the true christian and surname, place of abode, and occupation of the person to whom the licence is desired to be granted, and a true and full description of his estate or interest in such house; and in case the person to whom the licence is desired to be granted does not propose to reside himself in the licenced house, (*y*) the true christian and surname and occupation of the superintendent who is to reside therein; and such notice, when given for any house which shall not have been previously licenced, (*z*) shall be accompanied by a plan (*a*) of such house, to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth, and height of and a reference by a figure or letter to every room and apartment therein, and the statement of the quantity of land, not covered by any building, annexed to such house, and appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received therein; and also a statement of the number of patients proposed to be received into such house, and whether the licence so applied for is for the reception of male or female patients, or of both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which the one sex may be kept distinct and apart from the other; (*b*) and such notice, plan, and statement, when sent to the clerk of the peace, shall be laid by him before the justices of the county or borough at such time as they shall take into

(*v*) See *Reg.* v. *JJ. of Salop*, 8 A. & E. 173; *Reg.* v. *JJ. of Middlesex*, 14 L. J. R. (N.S.) M. C. 139.

(*w*) s. 15, *ante.*

(*x*) s. 17, *ante.*

(*y*) See Introduction, *ante*, pp. 46, 52; 16 & 17 Vict. c. 96, s. 2, *post*; and 25 & 26 Vict. c. 111, s. 16, *post.*

(*z*) As to application for renewal of licence, see s. 29, *post.*

(*a*) See 16 & 17 Vict. c. 96, s. 1, *post*; and 25 & 26 Vict. c. 111, s. 14, *post.*

(*b*) As to punishment for false statements, etc. see s. 27, *post.*

their consideration the application for such licence: (*c*) provided always, that it shall be lawful for any person to whom a licence shall be granted to remove the superintendent named in the notice, and at any time or times to appoint another superintendent, upon giving a notice containing the true christian and surname and occupation of the new superintendent to the Commissioners or the visitors of the house, as the case may require: provided always, that all plans heretofore delivered shall be deemed sufficient for the purposes of this Act, if the Commissioners or justices, as the case may be, shall so think fit.

XXV. [Repealed by 16 & 17 Vict. c. 96, s. 1; *post.*]

Notice of all Additions and Alterations to be given to the Commissioners or Clerk of the Peace.

XXVI. And be it enacted, that no addition or alteration shall be made to, in, or about any licenced house, or the appurtenances, unless previous notice in writing of such proposed addition or alteration, accompanied with a plan of such addition or alteration, to be drawn upon the scale aforesaid, and to be accompanied by such description as aforesaid, (*d*) shall have been given by the person to whom the licence shall have been granted to the Commissioners or to the clerk of the peace, as the case may be, and the consent in writing of the Commissioners, or of two of the visitors, (*e*) as the case may be, shall have been previously given. (*f*)

Untrue Statement a Misdemeanor.

XXVII. And be it enacted, that if any person shall wilfully give an untrue or incorrect notice, plan, statement, or description of any of the things hereinbefore required to be included in any notice, plan, or statement, he shall be guilty of a misdemeanor. (*g*)

(*c*) See also 16 & 17 Vict. c. 96, s. 1, *post;* and 25 & 26 Vict. c. 111, s. 14, *post.*

(*d*) As to punishment for false description, &c. see s. 27, *post.*

(*e*) 25 & 26 Vict. c. 111, s. 15, *post.*

(*f*) No penalty is annexed to this clause; but any person acting in wilful violation of it, by proceeding without the required consent, will be liable to prosecution for misdemeanor, in disobeying the statute.

(*g*) s. 106, *post.*

A Copy of every Licence granted by Justices to be sent to the Commissioners.

XXVIII. And be it enacted, that in every case in which a licence for the reception of lunatics shall after the passing of this Act be granted by any justices, the clerk of the peace for the county or borough shall, within fourteen days after such licence shall have been granted, send a copy thereof to the Commissioners; and any clerk of the peace omitting to send such copy within such time shall for every such omission forfeit a sum not exceeding two pounds. (*h*)

Every Person applying for the Renewal of a Licence to furnish a Statement of the Number and Class of Patients then detained.

XXIX. And be it enacted, that in every case in which any person shall apply for the renewal of a licence already granted or hereafter to be granted, such person, if applying to the Commissioners, shall with such application (*i*) transmit to the Commissioners, and if applying to any justices (*j*) shall with such application (*i*) transmit to the clerk of the peace for the county or borough, and also at the same time to the Commissioners, a statement (*k*) signed by the person so applying, containing the names and number of the patients of each or either sex then detained in such house, and distinguishing whether such patients respectively are private or pauper patients; and any person who shall hereafter obtain the renewal of a licence without making such return (*k*) or returns (*k*) shall for every such offence forfeit the sum of ten pounds; and any person who shall make any such return (*k*) untruly shall be guilty of a misdemeanor.

Licences to be made out in a given Form, etc., and to be for not more than Thirteen Months.

XXX. And be it enacted, that every licence shall, as nearly as conveniently may be, be according to the form in

(*h*) s. 106; and s. 108, *post*.

(*i*) The "application" here mentioned seems to be identical with the "notice" referred to in s. 24, *ante;* and must consequently comprise the same particulars.

(*j*) See also s. 67, *post;* and 25 & 26 Vict. c. 111, s. 36, *post*.

(*k*) The different words here used—"statement," "return," and "returns," seem all of them to refer to the same document. See s. 106, *post;* and s. 108, *post*.

the schedule (A) annexed to this Act, (*l*) and shall be stamped with a ten shilling stamp, and shall be under the seal of the Commissioners, if granted by them, (*m*) and if by any justices under the hands and seals (*n*) of three or more such justices in general or quarter sessions assembled, and shall be granted for such period, not exceeding thirteen calendar months, (*o*) as the Commissioners or justices, as the case may be, shall think fit.

No Licence, etc., in any Borough without consent of Recorder.

XXXI. And be it enacted, that no licence shall be granted or visitor or clerk appointed by the justices for any borough without the consent in writing of the Recorder of such borough to such grant or appointment. (*p*)

Charge for Licences to be granted in pursuance of this Act.—Power to reduce the Charge for the Licence in certain Cases.

XXXII. And be it enacted, that for every licence to be hereafter granted there shall be paid to the secretary of the Commissioners, or to the clerk of the peace, according as the licence shall be granted by the Commissioners or justices (exclusive of the sum to be paid for the stamp), (*q*) the sum of ten shillings and no more for every patient not being a pauper, (*r*) and the sum of two shillings and sixpence and no more for every patient being a pauper, (*r*) proposed to be received into such house, and if the total amount of such sums of ten shillings and two shillings and sixpence shall not amount to fifteen pounds, then so much more as shall make up the sum of fifteen pounds; and no such licence shall be delivered until the sum payable for the same shall be paid: provided always, that if the period for which a licence shall be granted be less than thirteen calendar months (*q*) it shall

(*l*) See also 25 & 26 Vict. c. 111, s. 14; and schedule A, annexed to that Act, *post.*

(*m*) s. 7, *ante.*

(*n*) See, however, 18 & 19 Vict. c. 105, s. 15, *post.*

(*o*) See 18 & 19 Vict. c. 105, s. 9, *post;* and s. 18, *post*, as to the revocation or expiration of the licence.

(*p*) s. 17, *ante;* s. 18, *ante;* s. 21, *ante;* and s. 115, *post.* See also, 5 & 6 Wm. iv. c. 76, s. 105.

(*q*) s. 30, *ante.*

(*r*) See Interpretation Clause, s. 114, *post.*

be lawful for the Commissioners or the justices, as the case may be, to reduce the payment to be made on such licence to any sum not less than five pounds.

Application of Monies received for Licences by the Secretary of the Commissioners.

XXXIII. And be it enacted, that all monies received for licences granted by the Commissioners, (*s*) and for searches made in pursuance of the provision for that purpose hereinafter contained, (*t*) shall be retained by the secretary of the Commissioners, and be applied by him in or towards the payment of the salaries and travelling and other expenses of the Commissioners, and of their secretary and clerks, (*u*) and in or towards the payment or discharge of all or any costs, charges, and expenses incurred by or under the authority of the Commissioners in the execution of or under or by virtue of this Act. (*v*)

Secretary of the Commissioners to make out an Annual Account to be laid before the Lords Commissioners of the Treasury, of all Receipts and Payments by him under this Act.

XXXIV. And be it enacted, that the secretary of the Commissioners shall make out an account of all monies received and paid by him as aforesaid, (*w*) and of all monies otherwise received and paid by him, (*x*) and of all charges and expenses incurred under or by virtue of or in the execution of this Act; and such account shall be made up to the first day of August in each year, and shall be signed by five at least of the Commissioners; and such account shall specify the several heads of charge and expenditure, and shall be transmitted to the Lord High Treasurer, or to the Commissioners of Her Majesty's Treasury, who shall thereupon audit such account, and, if he or they shall deem it expedient, direct the balance (if any) remaining in the hands of the said secretary to be paid into the Exchequer to the

(*s*) s. 32, *ante.*
(*t*) s. 84, *post.*
(*u*) s. 3, *ante;* s. 9, *ante;* and s. 11, *ante.*
(*v*) s. 101, *post;* s. 109, *post.*
(*w*) s. 33, *ante.*
(*x*) s. 102, *post;* s. 106, *post.*

account of the Consolidated Fund; and such accounts shall be laid before Parliament on or before the twenty-fifth day of March in each year, if Parliament be then sitting, or if Parliament be not then sitting then within one month after the then next sitting of Parliament.

XXXV. [Repealed by 32 & 33 Vict., c. 91, s. 34.]

Application of Monies received for Licences by Clerks of the Peace.

XXXVI. And be it enacted, that all monies to be received for licences granted by any justices (*y*) shall be applied by the clerk of the peace for the county or borough in or towards the payment of the salary or remuneration of the clerk to the visitors (*z*) for such county or borough, and in or towards the remuneration of such of the same visitors as are hereinbefore directed to be remunerated, (*a*) and in or towards the payment or discharge of all costs, charges, and expenses incurred by or under the authority of the same justices or visitors in the execution of or under or by virtue of this Act. (*b*)

Clerks of the Peace to make out Annual Accounts, to be laid before the Justices in Session, of all Receipts and Payments made under this Act.

XXXVII. And be it enacted, that the clerk of the peace for every county or borough shall keep an account of all monies received and paid by him as aforesaid, (*c*) and of all monies otherwise received or paid by him under or by virtue of or in the execution of this Act; (*d*) and such account shall respectively be made up to the first day of August in each year, and shall be signed by two at least of the visitors for the county or borough; and every such account shall be laid by the clerk of the peace before the justices at the Michaelmas general or quarter sessions, who shall thereupon

(*y*) s. 32, *ante*.
(*z*) s. 21, *ante*.
(*a*) s. 20, *ante*.
(*b*) s. 101, *post*; s. 109, *post*.
(*c*) s. 36, *ante*.
(*d*) s. 102, *post*; s. 106, *post*. With regard to the fees payable for searches under s. 83, see note on that section, *post*.

direct the balance (if any) remaining in the hands of the clerk of the peace to be paid into the hands of the treasurer for such county or borough, in aid and as part of the county or borough rate.

Balance of Payments over Receipts may be paid out of the Funds of the County or Borough.

XXXVIII. And be it enacted, that it shall be lawful for the justices for any county or borough (*e*) in general or quarter sessions assembled, if they shall think fit, to order to be paid to the clerk of the peace for such county or borough, (*e*) out of the rates or funds thereof, such sum or sums of money as they shall on examination deem to be necessary to pay and discharge so much of the salary, remuneration, costs, charges, and expenses hereinbefore (*f*) directed to be paid out of the monies received by such clerk of the peace for licences and otherwise as aforesaid (*f*) as such monies shall be inadequate to pay; and also that it shall be lawful for the justices in general or quarter sessions assembled, if they shall think fit, from time to time to order to be advanced out of the rates or funds of such county or borough, (*e*) to the clerk of the peace, such sum or sums of money as to such justices may appear requisite and reasonable, for or towards the payment or discharge of any such salary, remuneration, costs, charges, or expenses as last aforesaid; and every such sum of money as aforesaid shall be paid and advanced out of the rates or funds of such county or borough (*e*) by the treasurer thereof, and shall be allowed in his accounts, on the authority of the aforesaid order by the justices for the payment or advance thereof.

Provision in case of the Incapacity or Death of the Person Licenced.

XXXIX. And be it enacted, that if any person to whom a licence shall have been granted under this Act or under

(*e*) See s. 115, *post*. It will be observed that the order for payment is to be made by the borough justices, and not by the town council.

(*f*) ss. 36, 37, *ante*.

any of the Acts hereinbefore repealed (*g*) shall by sickness or other sufficient reason become incapable of keeping the licenced house, or shall die before the expiration of the licence, it shall be lawful for the Commissioners or for any three justices (*h*) for the county or borough, (*h*) as the case may be, if they shall respectively think fit, by writing endorsed on such licence, under the seal of the Commissioners or under the hands of such three justices, to transfer the said licence, (*i*) with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as shall at the time of such incapacity or death be the superintendent of such house, or have the care of the patients therein, or to such other person as the Commissioners or such justices respectively shall approve, and in the meantime such licence shall remain in force and have the same effect as if granted to the superintendent of the house; and in case a licence has been or shall be granted to two or more persons, and before the expiration thereof any or either of such persons shall die, leaving the other or others surviving, such licence shall remain in force and have the same effect as if granted to such survivors or survivor. (*j*)

In case of a Licenced House being taken for Public Purposes, or accidentally rendered unfit, or of the Keeper wishing to transfer his Patients to a new House.

XL. And be it enacted, that if any licenced house shall be pulled down or occupied under the provisions of any Act of Parliament, or shall by fire, tempest, or other accident be rendered unfit for the accommodation of lunatics, or if the person keeping such house shall desire to transfer the patients to another house, it shall be lawful for the Commissioners (if the new house shall be within their immediate jurisdiction), (*k*) at any quarterly or other meeting, or for any

(*g*) s. 1, *ante*.

(*h*) It will be observed that this act is not required to be done either by the quarter sessions or by the visitors, but that it may be done by any three justices. In the case of a borough, the consent of the Recorder does not appear to be required. See s. 31, *ante*.

(*i*) This transfer does not appear to be subject to any stamp or fee. See the terms of ss. 30 and 32, *ante*.

(*j*) 16 & 17 Vict. c. 96, ss. 1, 2, *post*.

(*k*) s. 14, *ante*.

two or more of the visiting justices (*l*) for the county or borough (*l*) within which the new house is situate, as the case may be, upon the payment to the secretary of the Commissioners or the clerk of the peace, as the case may be, of not less than one pound for the licence (exclusive of the sum to be paid for the stamp), (*m*) to grant to the person whose house has been so pulled down, occupied, or so rendered unfit, or who shall desire to transfer his patients as aforesaid, a licence to keep such other house for the reception of lunatics, for such time as the Commissioners or the said justices, as the case may be, shall think fit: provided always, that the same notice (*n*) of such intended change of house, and the same plans and statements and descriptions of and as to such intended new house, shall be given as are required when application is first made for a licence for any house, (*o*) and shall be accompanied by a statement in writing of the cause of such change of house; and that, except in cases in which the change of house is occasioned by fire or tempest, seven clear days' previous notice (*n*) of the intended removal shall be sent, by the person to whom the licence for keeping the original house shall have been granted, to the person who signed the order for the reception of each patient, not being a pauper, or the person by whom the last payment on ac-

(*l*) It will be observed that the terms of this section differ from those of the preceding one (s. 39, *ante*); and that the new licence in the cases referred to is to be granted by "any two or more of the visiting justices." In a borough the consent of the Recorder will be necessary. See s. 31, *ante*.

(*m*) The stamp will apparently be ten shillings—see s. 30, *ante*; but what is to be the charge or fee for the new licence is not quite clear, see s. 32, *ante*.

(*n*) There is considerable obscurity in the terms of this section, with regard to the notices required to be given. The notice first mentioned is apparently to be given to the Commissioners, or the clerk of the peace; but the time of giving it, as prescribed by s. 24, does not appear to be suitable to the circumstances of the cases which are intended to be provided for. As regards the other notice, it seems doubtful whether it is to be given "seven clear days" previous to the removal, or previous to the application for the new licence.

(*o*) s. 24, *ante*; and 16 & 17 Vict. c. 96, s. 1, *post*. The enactment in 25 & 26 Vict. c. 111, s. 14, *post*, does not appear to apply to the cases contemplated in the above section (s. 40); as it refers to licences granted "by the justices of a county or borough," whilst the new licences in the cases in question are to be granted "by any two or more of the visiting justices."

count of such patient shall have been made, and to the relieving officer or overseer of the union or parish to which each patient being a pauper is chargeable, or the person by whom the last payment on account of such patient shall have been made.

Power of Revocation of Licences granted by Justices.

XLI. And be it enacted, that if a majority of the justices of any county or borough in general or quarter sessions assembled shall recommend to the Lord Chancellor that any licence granted by the justices for such county or borough, either before or after the passing of this Act, shall be revoked, it shall be lawful for the Lord Chancellor to revoke the same by an instrument under his hand and seal, such revocation to take effect at a period to be named in such instrument, not exceeding two calendar months from the time a copy or notice thereof shall have been published in the *London Gazette;* and a copy or notice of such instrument of revocation shall be published in the *London Gazette*, and shall before such publication be transmitted to the person to whom such licence shall have been granted, or to the resident superintendent of the licenced house, or be left at the licenced house: provided always, that in case of any such revocation being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the person the revocation of whose licence shall be recommended, or to the resident superintendent of the licenced house, or shall be left at the licenced house. (*p*)

Power of Revocation and of Prohibition of Renewal of Licences granted by the Commissioners or by Justices.

XLII. And be it enacted that if the Commissioners shall recommend to the Lord Chancellor that any licence granted either by the Commissioners or by any justices, either before or after the passing of this Act, shall be revoked or shall not be renewed, it shall be lawful for the Lord Chancellor by an

(*p*) See 18 & 19 Vict. c. 105, s. 18 (*post*), which renders it a misdemeanor to keep two or more lunatics in any such house after the licence has been revoked, or after the lapse of two months from the expiration of the licence without renewal. See also 18 & 19 Vict. c. 105, s. 9 (*post*), as to the powers of the Commissioners and visitors in such cases.

instrument under his hand and seal to revoke or prohibit the renewal of such licence; and in the case of a revocation the same shall take effect at a period to be named in such instrument, not exceeding two calendar months from the time a copy or notice thereof shall have been published in the *London Gazette;* and a copy or notice of such instrument of revocation shall be published in the *London Gazette*, and shall before such publication be transmitted to the person to whom such licence shall have been granted, or to the resident superintendent of the licenced house, or shall be left at the licenced house: provided always, that in case of any such revocation or prohibition to renew being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the person the revocation or prohibition of renewal of whose licence shall be recommended, or to the resident superintendent of the licenced house, or shall be left at the licenced house. (*q*)

Hospitals receiving Lunatics to have their Regulations printed, and a resident Medical Attendant, and to be registered.

XLIII. And be it enacted, that the regulations (*r*) as to lunatics of every hospital (*s*) in which lunatics are or shall be received shall be printed, and complete copies thereof shall

(*q*) See note to s. 41, *ante*. With regard to the prohibition of renewal, however, it must be observed that the extent of its application is not distinctly expressed in the enactment. It is not quite clear whether the prohibition must be permanent, or may be limited to a definite period; whether it must be absolute, or may be in any way conditional; and whether it must comprise both the person and the premises, or may apply to either without the other, so as to allow the same person to obtain a licence for other premises, or another person to obtain a licence for the same premises. The licence according to the prescribed form (schedule A, *post*), includes both; as it empowers "the said A. B. to use and employ the said house and premises."

(*r*) 16 & 17 Vict. c. 96, s. 30, *post*. It will be seen that the above section (s. 43) referred to the existing regulations, and contained no provision to compel regulations to be made where none existed. By the later Act, however, it is required that regulations shall be framed for every registered hospital. See Introduction, *ante*, pp. 39–43.

(*s*) See as to the Royal Hospital of Bethlehem, s. 116, *post;* and 16 & 17 Vict. c. 96, s. 35, *post*. As to the definition of "hospital," see s. 114, *post;* and as to institutions for idiots, see Introduction, *ante*, p. 43. With respect to the reception of boarders, see Introduction, *ante*, p. 40.

be sent to the Commissioners, and also kept hung up in the visitors' room of such hospital; and that every such hospital shall have a physician, surgeon, or apothecary resident therein, as the superintendent and medical attendant thereof; (*t*) and such superintendent shall immediately after the passing of this Act (or immediately after the establishment of such hospital, as the case may be), apply to the Commissioners to have such hospital registered, and thereupon such hospital shall be registered in a book to be kept for that purpose by the Commissioners; and in case the superintendent of any such hospital shall at any time omit to have copies of such regulations sent or hung up as aforesaid, or to apply to have such hospital registered as aforesaid, he shall for every such omission forfeit a sum not exceeding twenty pounds. (*u*)

No House to be kept for the reception of two or more Lunatics without a Licence.

XLIV. And be it enacted, that after the passing of this Act it shall not be lawful for any person (*v*) to receive two or more lunatics into any house, (*w*) unless such house shall be an asylum or an hospital registered under this Act, or a house for the time being duly licenced under this Act, or one of the Acts hereinbefore repealed; (*x*) and any person who shall receive two or more lunatics into any house other than a house for the time being duly licenced as aforesaid, or an asylum or an hospital duly registered under this Act shall be guilty of a misdemeanor. (*y*)

XLV. [Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

XLVI. [Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

(*t*) s. 114, *post;* 16 & 17 Vict. c. 96, s. 36, *post;* 25 & 26 Vict. c. 111, s. 47, *post.*

(*u*) s. 106, *post;* s. 108, *post.*

(*v*) *Budd* v. *Foulkes*, 3 Camp. 404.

(*w*) The word "house," as here used, does not include workhouses (see 16 & 17 Vict. c. 96, s. 28, *post*), or jails (see 8 & 9 Vict. c. 100, s. 110, *post*), or the military and naval asylums (see Eighth Report of the Commissioners in Lunacy, 31 March, 1854, pp. 30–32).

(*x*) s. 1, *ante.*

(*y*) s. 106, *post.* See also ss. 41, 42, *ante;* and 18 & 19 Vict. c. 105, s. 18, *post;* and s. 9, *post.*

XLVII. [Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

XLVIII. [Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

XLIX. [Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

Every Person receiving a Person as a Lunatic into any House or Hospital to make an Entry thereof in a certain Form.

L. And be it enacted, that every proprietor or superintendent who shall receive any patient into any licenced house or any hospital shall, within two days after the reception of such patient, make an entry with respect to such patient in a book to be kept for that purpose to be called "The Book of Admissions," (*z*) according to the form and containing the particulars required in schedule (E) annexed to this Act, so far as he can ascertain the same, except as to the form of the mental disorder, (*a*) and except also as to the discharge or death of the patient, which (*b*) shall be made when the same (*b*) shall happen; and every person who shall so receive any such patient, and shall not within two days thereafter make such entry as aforesaid (except as aforesaid), shall forfeit a sum not exceeding two pounds; (*c*) and every person who shall knowingly and willingly in any such entry untruly set forth any of the particulars shall be guilty of a misdemeanor. (*c*)

Form of Patient's Disorder to be entered in "The Book of Admissions" by the Medical Attendant.

LI. And be it enacted, that the form of the mental disorder of every patient received into any licenced house or any hospital shall within seven days after his reception be entered in the said Book of Admissions (*d*) by the medical attendant of such house or hospital; and every such medical attendant who shall omit to make any such entry within the time afore-

(*z*) As to inspection of this book under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*a*) See s. 51, *post.*

(*b*) This sentence is not very good grammar; but there can be no doubt as to the meaning. The antecedent to "which" is "entry;" whilst "the same" refers to "the discharge or death." See also s. 54, *post.*

(*c*) s. 106, *post.*

(*d*) s. 50, *ante.*

said shall for every such offence forfeit a sum not exceeding two pounds. (*e*)

Every Person receiving a Patient into any House or Hospital to transmit a Notice thereof to the Commissioners, and if within the Jurisdiction of any Visitors, then also to the Clerk of such Visitors.

LII. And be it enacted, that the proprietor or resident superintendent of every licenced house (whether licenced by the Commissioners or by any justices), and the superintendent of every hospital, shall, after two clear days, (*f*) and before the expiration of seven clear days (*f*) from the day on which any patient shall have been received into any such house or hospital, transmit a copy of the order and medical certificates or certificate on which such person shall have been received, and also a notice and statement according to the form (*g*) in schedule (F) annexed to this Act, to the Commissioners; and the proprietor or resident superintendent of every house licenced within the jurisdiction of any visitors shall also within the same period transmit another copy of such order and certificates or certificate, and a duplicate of such notice and statement, to the clerk of the visitors; and every proprietor and superintendent of any such house or hospital who shall neglect to transmit such copy, notice, or statement to the Commissioners, or (where the same is required) to the clerk of the visitors, shall be guilty of a misdemeanor. (*h*)

Notice to be given in the case of the Escape of any Patient, and of his being brought back.

LIII. And be it enacted, that whenever any patient shall escape from any licenced house or any registered hospital the proprietor or superintendent of such house or hospital shall within two clear days next after such escape transmit a written notice thereof to the Commissioners, and if such house be within the jurisdiction of any visitors then also to the clerk of such visitors; and such notice shall state the

(*e*) s. 106, *post*.
(*f*) 25 & 26 Vict. c. 111, s. 28, *post*.
(*g*) This form is superseded, and another form substituted by 16 & 17 Vict. c. 96, s. 24, *post*; and schedule C, *post*.
(*h*) s. 106, *post*; and s. 108, *post*.

christian and surname of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape; and if such patient shall be brought back to such house or hospital, (*i*) such proprietor or resident superintendent shall, within two clear days next after such person shall be so brought back, transmit a written notice thereof to the Commissioners, and also, if such house be within the jurisdiction of any visitors, to the clerk of such visitors; and such notice shall state when such person was so brought back, and the circumstances connected therewith, and whether with or without a fresh order and certificates or certificate; (*j*) and every proprietor or resident superintendent omitting to transmit such notice, whether of escape or of return, shall for every such omission forfeit a sum not exceeding ten pounds. (*k*)

Entry to be made, and Notice given, in case of the Death, Discharge, or Removal of any Patient.

LIV. And be it enacted, that whenever any patient shall be removed or discharged from any licenced house or any hospital, or shall die therein, the proprietor or superintendent of such house or hospital shall, within two clear days next after such removal, discharge, or death, make an entry thereof in a book (*l*) to be kept for that purpose according to the form and stating the particulars in schedule (G 1) annexed to this Act, (*m*) and shall also within the same two days transmit a written notice (*n*) thereof, and also of the cause of his death, to the Commissioners, and also, if such house shall be within the jurisdiction of any visitors, to the clerk of such visitors, according to the form and containing the particulars in schedule (G 2) annexed to this Act; and every proprietor or superintendent of any such house or hospital who shall neglect to make such entry or transmit

(*i*) s. 99, *post*. See also 25 & 26 Vict. c. 111, s. 39, *post*.

(*j*) See s. 87, *post*.

(*k*) s. 106, *post*; and s. 108, *post*.

(*l*) As to inspection of this book under 14 & 15 Vict. c. 99. s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*m*) See also s. 50, *ante*, as to the entries to be made in the "Book of Admissions."

(*n*) As to the notice to be given to the coroner, see 16 & 17 Vict. c. 96, s. 19, *post*.

such notice or notices, or shall therein set forth anything untruly, shall be guilty of a misdemeanor. (*o*)

In case of the Death of a Patient, a statement of the Cause of Death to be transmitted to the Commissioners, and if within the Jurisdiction of any Visitors, to the Clerk of the Visitors also.

LV. And be it enacted, that in case of the death of any patient in any licenced house or any hospital, a statement of the cause of the death of such patient, with the name of any person present at the death, shall be drawn up and signed by the medical attendant of any such house or hospital, (*p*) and a copy thereof, duly certified by the proprietor or superintendent of such house or hospital, shall by him be transmitted to the Commissioners, and also to the person signing the order for such patient's confinement, and to the registrar of deaths for the district, (*q*) and if such house be within the jurisdiction of any visitors, then also to the clerk of such visitors, within forty-eight hours after the death of such patient; and every medical attendant, proprietor, or superintendent who shall neglect or omit to draw up, sign, certify or transmit such statement as aforesaid shall for every such neglect or omission forfeit and pay a sum not exceeding fifty pounds. (*r*)

Abuse or Ill-treatment or (in certain cases) Neglect of a Patient to be a Misdemeanor.

LVI. And be it enacted, that if any superintendent, officer, nurse, attendant, servant, or other person employed in any licenced house or registered hospital shall in any way abuse or ill-treat any patient confined therein, or shall wilfully neglect any such patient, he shall be deemed guilty of a misdemeanor; (*s*) and that in the event of the release of any

(*o*) s. 106, *post*; s. 108, *post*.

(*p*) As to the entries to be made with regard to the death, in the "Medical Visitation Book," and in the "Case Book," see s. 59, *post*; and 16 & 17 Vict. c. 96, s. 19, *post*.

(*q*) See 6 & 7 Wm. iv. c. 86, ss. 19, 25; and as to births, s. 20. See note to 16 & 17 Vict. c. 97, s. 92, *post*.

(*r*) s. 106, *post*; s. 108, *post*.

(*s*) 16 & 17 Vict. c. 96, s. 9, *post*; and s. 36, *post*. See also s. 26.

person from confinement in any asylum or private house (*t*) who shall consider himself to have been unjustly confined, a copy of the certificates and order (*u*) upon which he has been confined shall at his request be furnished to him or to his attorney by the clerk (*v*) to the Commissioners, without any fee or reward for the same; and it shall be lawful for the Home Secretary, on the report of the Commissioners or visitors of any asylums, to direct Her Majesty's Attorney-General to prosecute on the part of the Crown any person who shall have been concerned in the unlawful taking or confinement of any of Her Majesty's subjects as an insane patient, and likewise any person who shall have been concerned in the neglect or ill-treatment of any patient or person so confined. (*w*)

Houses having 100 *Patients to have a Resident Medical Attendant, and Houses having less to be visited by a Medical Attendant.*

LVII. And be it enacted, that in every house licenced for one hundred patients or more there shall be a physician, surgeon, or apothecary (*x*) resident as the superintendent or medical attendant thereof; and that every house licenced for less than one hundred and more than fifty patients (in case such house shall not be kept by or have a resident physician surgeon, or apothecary), (*x*) shall be visited daily by a physician, surgeon, or apothecary; (*x*) and that every house licenced for less than fifty patients (in case such house shall not be kept by or have a resident physician, surgeon, or apothecary), (*x*) shall be visited twice in every week by a physician, surgeon, or apothecary: (*x*) provided always, that

of that Act, *post;* and Introduction, *ante*, p. 75. As to prosecution for manslaughter, and admissibility of lunatic as a witness, see *Reg.* v. *Hill*, 5 Cox C. C. 159; and Introduction, *ante*, p. 75.

(*t*) The precise meaning to be given to these words, as used in this section, is by no means clear.

(*u*) s. 99, *post;* s. 105, *post.* As to inspection of these documents under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*v*) *Qy.* secretary.

(*w*) See also s. 106, *post.* "The 56th section is explained by the 106th." Parke, B., in *Hill* v. *Philp*, 7 Exch. 232.

(*x*) 16 & 17 Vict. c. 96, s. 36, *post;* and 25 & 26 Vict. c. 111, s. 47, *post.*

it shall be lawful for the visitors of any licenced house to direct that such house, and for the Commissioners to direct that any licenced house, shall be visited by a physician, surgeon, or apothecary (*y*) at any other time or times, not being oftener than once in every day.

The Commissioners and Visitors, in Houses licenced for less than Eleven Persons, may lessen the Number of Medical Visits.

LVIII. Provided always, and be it enacted, that when any house is licenced to receive less than eleven lunatics it shall be lawful for any two of the Commissioners or any two of the visitors of such house, if they shall respectively so think fit, by any writing under their hands, to permit that such house shall be visited by a physician, surgeon, or apothecary (*y*) at such intervals more distant than twice in every week as such Commissioners or visitors shall appoint, but not at a greater interval than once in every two weeks.

A Book to be kept, to be called "The Medical Visitation Book," in which a weekly Entry is to be made, showing the Condition of the House and of the Patients.

LIX. And be it enacted, that every physician, surgeon, or apothecary, (*y*) where there shall be only one, keeping or residing in or visiting any licenced house or any hospital, and where there shall be two or more physicians, surgeons, or apothecaries,(*y*) keeping or residing in or visiting any licenced house or any hospital, then one at least of such physicians, surgeons, or apothecaries, (*y*) shall once in every week (or, in the case of any house at which visits at more distant intervals than once a week are permitted, on every visit), enter and sign in a book to be kept at such hospital for that purpose, to be called "The Medical Visitation Book," (*z*) a report showing the date thereof, and also the number, sex, and state of health of all the patients then in such house or hospital, the christian and surname of every patient who shall have been under restraint, or in seclusion, (*a*) or under medical treatment, since the date of the last preceding report,

(*y*) See note (*x*) to this section, *ante*.

(*z*) As to inspection of this book under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*a*) As to the meaning of "Seclusion," see Thirteenth Report of the Commissioners in Lunacy (31 March, 1859), p. 67.

the condition of the house or hospital, and every death, (*b*) injury, and act of violence which shall have happened to or affected any patient since the then last preceding report, according to the form (*c*) in schedule (H) annexed to this Act; and every such physician, surgeon, or apothecary, (*d*) who shall omit to enter or sign such report as aforesaid shall for every such omission forfeit and pay the sum of twenty pounds; (*c*) and every such physician, surgeon, or apothecary, (*d*) who shall in any such report as aforesaid enter anything untruly shall be guilty of a misdemeanor. (*c*)

A Medical Case Book to be kept.

LX. And be it enacted, that there shall be kept in every licenced house and in every hospital a book to be called "The Case Book," (*e*) in which the physician, surgeon, or apothecary, (*d*) keeping or residing in or visiting such house or hospital shall from time to time make entries of the mental state and bodily condition of each patient, together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder; and that it shall be lawful for the Commissioners from time to time, by any order under their common seal, (*f*) to direct the form in which such Case Book shall be kept by such physician, surgeon, or apothecary; (*d*) and immediately after a copy of such order shall have been transmitted by the secretary of the Commissioners to such physician, surgeon, or apothecary, (*d*) such physician, surgeon, or apothecary shall thereupon keep such Case Book in the form which shall be directed by such order; and that it shall be lawful for the Commissioners (whenever they shall see fit) to require, by an order in writing under their common seal, such

(*b*) See s. 55, *ante;* and s. 60, *post.*

(*c*) This form is superseded, and another form substituted, by 16 & 17 Vict. c. 96, s. 25, *post.* As to the penalties, see s. 106, *post;* and Introduction, *ante*, p. 74.

(*d*) See note (*x*) to s. 57, *ante.*

(*e*) As to inspection of this book under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*f*) See the order issued by the Commissioners on 16th March, 1874: Introduction, *ante*, p. 65. See also, as to the entry of the cause of death, 16 & 17 Vict. c. 96, s. 19, *post;* Introduction, *ante*, p. 78; and see further, s. 55, *ante;* and s. 59, *ante.*

physician, surgeon, or apothecary, (*g*) to transmit to the Commissioners a correct copy of the entries or entry in any Case Book kept under the provisions of this Act, relative to the case of any lunatic who is or may have been confined in any such licenced house or hospital; and every such physician, surgeon, or apothecary, (*g*) who shall neglect to keep the said Case Book or to keep the same according to the form directed by the Commissioners, or to transmit a copy of the said entry or entries, pursuant to such order or orders as aforesaid, shall for every such neglect forfeit any sum not exceeding ten pounds. (*h*)

All Licenced Houses and Hospitals to be visited by the Commissioners.

LXI. And be it enacted, that every licenced house (*i*) shall, without any previous notice, be visited by two at least of the Commissioners (one of whom shall be a physician or surgeon, and the other a barrister) four times at the least in every year, if such house shall be within the immediate jurisdiction (*j*) of the Commissioners, and if not, twice at least in every year; and every hospital (*k*) in which lunatics shall be received shall, without any previous notice, be visited by two at least of the said Commissioners (one of whom shall be a physician or surgeon, and the other a barrister) once at least in every year; and every such visit shall be made on such day or days, and at such hours of the day, (*l*) and for such length of time, as the Visiting Commissioners shall think fit, and also at such other times (if any) as the said Commissioners in Lunacy shall direct; and such Visiting Commissioners, when visiting such house or hospital, may and shall inspect every part of such house or hospital, and every outhouse, place, and building communicating with such house or hospital, or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used, or occupied therewith, and see every patient then confined in such house or hospital, and inquire whether any patient is under restraint,

(*g*) See note (*x*) to s. 57, *ante*.
(*h*) s. 106, *post*; s. 108, *post*.
(*i*) 25 & 26 Vict. c. 111, s. 29, *post*.
(*j*) s. 14, *ante*.
(*k*) 25 & 26 Vict. c. 111, s. 30, *post*.
(*l*) See also s. 71, *post*.

and why, and inspect the order and certificates or certificate for the reception of every patient who shall have been received into such house or hospital since the last visit of the Commissioners, and in the case of any house licenced by justices shall consider the observations made in the Visitors' Book (*m*) for such house by the visitors appointed by the justices, (*n*) and enter in the Visitors' Book (*m*) of such house or hospital a minute of the then condition of the house or hospital, and of the patients therein, and the number of patients under restraint, with the reasons thereof, as stated, and such irregularity (if any) as may exist in any such order or certificates as aforesaid, and also whether the previous suggestions (if any) of the Visiting Commissioners or visitors have or have not been attended to, and any observations which they may deem proper as to any of the matters aforesaid or otherwise, and also, if such visit be the first after the granting a licence to the house, shall examine such licence, (*o*) and, if the same be in conformity with the provisions of this Act, sign the same, but if it be informal enter in such Visitors' Book (*m*) in what respect such licence is informal: provided also, that it shall be lawful for the Lord Chancellor, on a representation by the Commissioners setting forth the expediency of such alteration, by any writing under his hand, to direct that any house licenced by justices shall (during such period as he shall therein specify, or until such his direction shall be revoked) be visited by the Commissioners once only in the year, and also to direct that any house licenced by the Commissioners, and not receiving any pauper patients therein, shall (during such period as he shall therein specify, or until such his direction shall be revoked) be visited by the Commissioners twice only in the year. (*p*)

Licenced Houses not within the immediate Jurisdiction of the Commissioners to be inspected four times a Year at least by the Visitors.

LXII. And be it enacted, that every licenced house (*q*)

(*m*) s. 66, *post*.
(*n*) s. 62, *post*.
(*o*) s. 65, *post*.
(*p*) It will be observed that as regards houses licenced by the Commissioners, in which paupers are received, the number of visits cannot be diminished.
(*q*) 25 & 26 Vict. c. 111, s. 29, *post*.

within the jurisdiction of any visitors appointed by justices shall be visited by two at least of the said visitors (one of whom shall be a physician, surgeon, or apothecary) (*r*) four times at the least in every year, on such days, and at such hours in the day, (*s*) and for such length of time as the said visitors shall think fit, (*t*) and also at such other times (if any) as the justices by whom such house shall have been licenced shall direct; and such visitors when visiting any such house may and shall inspect every part of such house, and every house, outhouse, place and building communicating therewith, or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used, or occupied therewith, and see every patient then confined therein, and inquire whether any patient is under restraint, and why, and inspect the order and certificates or certificate for the reception of every patient who shall have been received into such house since the last visit of the visitors, and enter in the Visitors' Book (*u*) a minute of the then condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof as stated, and such irregularity (if any) as may exist in any such order or certificates as aforesaid, and also whether the previous suggestions (if any) of the visitors or Visiting Commissioners have or have not been attended to, and any observations which they may deem proper as to any of the matters aforesaid or otherwise.

The Proprietor or Superintendent of every House and Hospital to show every Part and every Patient to the Visiting Commissioners and Visitors.

LXIII. And be it enacted, that the proprietor or superintendent of every licenced house or hospital shall show to the

(*r*) See note (*x*) to s. 57, *ante*.

(*s*) See also s. 71, *post*.

(*t*) See s. 21, *ante*. By s. 61, *ante*, it is provided that the Commissioners shall visit "without any previous notice;" but this qualifying clause is not inserted in s. 62, being probably considered unnecessary, having regard to the enactment in s. 21, which directs that the meetings of the visitors shall be held as privately as may be, so that no person connected with any house to be visited shall have notice of the intended visitation.

(*u*) s. 66, *post*.

Commissioners (*v*) and visitors (*v*) respectively visiting the same every part thereof respectively, and every person detained therein as a lunatic; and every proprietor or superintendent of any licenced house or any hospital who shall conceal (*w*) or attempt to conceal, or shall refuse or wilfully neglect to show, any part of such house or hospital, or any house, outhouse, place, or building communicating therewith, or detached therefrom, but not separated as aforesaid, or any part of the ground or appurtenances held, used, or occupied therewith, or any person detained or being therein, from any Visiting Commissioners (*v*) or visitors, (*v*) or from any person authorised under any power or provision of this Act (*x*) to visit and inspect such house or hospital, or the patients confined therein or any of them, shall be guilty of a misdemeanor.

Inquiries to be made by the Commissioners and Visitors on their several Visitations.

LXIV. And be it enacted, that the Visiting Commissioners (*v*) and visitors (*v*) respectively, upon their several visitations to every licenced house and to every hospital, shall inquire when Divine service is performed, and to what number of the patients, and the effect thereof; and also what occupations or amusements are provided for the patients, and the result thereof; and whether there has been adopted any system of non-coercion, and, if so, the result thereof; and also as to the classification of patients; and also as to the condition of the pauper patients (if any) when first received; and also as to the dietary of the pauper patients (if any); (*y*) and shall also make such other inquiries as to such Visiting Commissioners (*v*) or visitors (*v*) shall seem expedient; (*z*) and every proprietor or superintendent of a li-

(*v*) 25 & 26 Vict. c. 111, ss. 29, 30, *post.*

(*w*) As to a case in which the instruments of restraint having been studiously removed and concealed at the time of the visits of the justices and Commissioners, and false entries having been made in the medical visitation book, so as to conceal the fact of mechanical restraint being in use in the establishment, the proprietor and medical attendant were indicted for the latter offense and pleaded guilty,—see Sixth Report of the Commissioners (1851), p. 19; and Introduction, *ante*, p. 74.

(*x*) ss. 112, 113, *post.*

(*y*) s. 82, *post.*

(*z*) 25 & 26 Vict. c. 111, s. 35, *post.*

cenced house or an hospital who shall not give full and true answers to the best of his knowledge to all questions which the Visiting Commissioners (*a*) and visitors (*a*) respectively shall ask in reference to the matters aforesaid shall be guilty of a misdemeanor. (*b*)

Books and Documents to be produced to Visiting Commissioners and Visitors.

LXV. And be it enacted, that upon every visit of the Visiting Commissioners (*a*) to any licenced house or to any hospital, and upon every visit of the visitors (*a*) to any licenced house, there shall be laid before such Visiting Commissioners (*a*) or visitors (*a*) (as the case may be), by the proprietor or superintendent of such licenced house or of such hospital, a list of all the patients then in such house or hospital (distinguishing pauper patients from other patients, and males from females, and specifying such as are deemed curable), and also the several books by this Act required to be kept by the proprietor or superintendent and by the medical attendant of a licenced house or an hospital, and also all orders and certificates relating to patients admitted since the last visitation of the Commissioners (*a*) or visitors (*a*) (as the case may be), and also, in the case of a licenced house, the licence (*c*) then in force for such house, (*d*) and also all such other orders, (*c*) certificates, (*c*) documents, (*c*) and papers (*c*) relating to any of the patients at any time received into such licenced house or hospital as the Visiting Commissioners (*a*) or visitors (*a*) shall from time to time require to be produced to them; and the said Visiting Commissioners (*a*) or visitors, (*a*) as the case may be, shall sign the said books as having been produced to them.

A Book to be kept called "The Visitors' Book," for the result of Inspection and Inquiries; and a book called "The Patients' Book," for Observations as to State of Patients.

LXVI. And be it enacted, that there shall be hung up in

(*a*) 25 & 26 Vict. c. 111, ss. 29, 30, *post.*
(*b*) s. 106, *post.*
(*c*) As to inspection of the licence, and the orders, certificates, correspondence, or other documents relating to any patient, under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.
(*d*) s. 61, *ante.* The licence is not mentioned in s. 62.

some conspicuous part of every licenced house a copy of the plan given to the Commissioners or justices on applying for the licence for such house; (*e*) and that there shall be kept in every licenced house and in every hospital in which lunatics shall be received a Queen's Printer's copy of this Act, (*f*) bound up in a book to be called "The Visitors' Book," (*g*) and that the said Visiting Commissioners (*h*) and visitors (*h*) respectively shall at the time of their respective visitations enter therein the result of the inspections and inquiries hereinbefore (*i*) directed or authorised to be made by them respectively, with such observations (if any) as they shall think proper; and that there shall also be kept in every such house and hospital a book to be called "The Patients' Book," (*g*) and that the said Visiting Commissioners (*h*) and visitors (*h*) respectively shall at the times of their respective visitations enter therein such observations as they may think fit respecting the state of mind or body of any patient in such house or hospital.

Proprietor or Resident Superintendent to transmit all Entries by Visitors or Visiting Commissioners to the Clerk of the Visitors and to the Commissioners.

LXVII. And be it enacted, that the proprietor or resident superintendent of every licenced house and of every hospital shall, within three days after every such visit by the Visiting Commissioners (*h*) as aforesaid, transmit a true and perfect copy of the entries made by them in "The Visitors' Book," (*j*) "The Patients' Book," (*j*) and "The Medical Visitation Book," (*j*) respectively (distinguishing the entries in the several books) to the Commissioners, and shall, within three days after every such visitation by the visitors, (*h*) transmit a true and perfect copy of the entries made by them as aforesaid (distinguishing as aforesaid) to the Commissioners and

(*e*) s. 24, *ante;* 16 & 17 Vict. c. 96, s. 1, *post.*

(*f*) 16 & 17 Vict. c. 96, s. 37, *post.*

(*g*) As to inspection of these books under 14 & 15 Vict. c. 99, s. 6, see *Hill* v. *Philp*, 7 Exch. 232.

(*h*) 25 & 26 Vict. c. 111, ss. 29, 30, *post.*

(*i*) s. 61, *ante;* s. 62, *ante.*

(*j*) s. 66, *ante;* and s. 59, *ante.* It does not appear, however, that the Commissioners, or the visitors, are anywhere required to make any entries in the "Medical Visitation Book."

also to the clerk of the visitors; and the copies so transmitted to the clerk of the visitors of all such entries relating to any licenced house, and made since the grant or last renewal of the licence thereof, shall be laid before the justices on taking into consideration the renewal of the licence to the house to which such entries shall relate;(*k*) and every such proprietor or superintendent as aforesaid who shall omit to transmit, as hereinbefore directed, a true and perfect copy of every or any such entry as aforesaid, shall for every such omission forfeit a sum not exceeding ten pounds. (*l*)

Commissioners visiting a House licenced by Justices to make an entry in the Patients' Book as to the State of Mind of any doubtful Patient, and the same to be sent to the Clerk of the Visitors, who are thereupon to visit such Patient.

LXVIII. And be it enacted, that the Commissioners visiting any house licenced by justices shall carefully consider and give special attention to the state of mind of any patient therein confined, as to the propriety of whose detention they shall doubt (or as to whose sanity their attention shall be specially called), and shall, if they shall think that the state of mind of such patient is doubtful, and that the propriety of his detention requires further consideration, make and sign a minute thereof in the Patients' Book (*m*) of such house; and a true and perfect copy of every such minute shall, within two clear days after the same shall have been made, be sent by the proprietor or superintendent of such house to the clerk of the visitors of such house, and such clerk shall forthwith communicate the same to the said visitors, or some two of them (of whom a physician, surgeon, or apothecary, (*n*) shall be one), and such visitors shall thereupon immediately visit such patient, and act as they shall see fit; and every such proprietor or superintendent who shall omit to send a true and perfect copy, as hereinbefore directed, of every or any such last-mentioned minute, and every clerk who shall neglect to communicate the same to two of the visitors as aforesaid, shall be guilty of a misdemeanor. (*o*)

(*k*) See s. 29, *ante;* and 25 and 26 Vict. c. 111, s. 36, *post.*
(*l*) s. 106, *post;* s. 108, *post.*
(*m*) s. 66, *ante.*
(*n*) See note (*x*) to s. 57, *ante.*
(*o*) s. 106, *post;* s. 103, *post.*

Visiting Commissioners to report on every House and Hospital not within their immediate Jurisdiction.

LXIX. And be it enacted, that the Visiting Commissioners shall, after every visitation by them to every licenced house not being within their immediate jurisdiction, (*p*) and to every hospital, report in writing the general result of their inspection thereof (together with such special circumstances, if any, as they may deem proper to notice) to the Commissioners, and the secretary of the Commissioners shall thereupon enter the same in a book to be kept for that purpose.

Power for the Commissioners or any Five of them to make Rules.

LXX. And be it enacted, that it shall be lawful for the Commissioners or any five of them, at any quarterly or special meeting, by any resolution or resolutions under their common seal, or to be entered in a book to be kept for that purpose, and signed by five at least of the Commissioners present at such meeting, from time to time to make such orders and rules as they shall think fit for regulating the duties of the Commissioners or any of them, or of their secretary, clerks, and servants, or for the due or better performance of the business of the Commission: provided nevertheless, that the secretary of the Commissioners shall give to every Commissioner, so far as circumstances will admit, not less than seven days' notice of every such special meeting, and shall in the summons for such special meeting state the purposes for which the same is intended to be held. (*q*)

Power in certain Cases to visit by Night.

LXXI. And be it enacted, that it shall be lawful for any two or more of the Commissioners, or any two visitors, to visit and to inspect any licenced house or hospital at such hour of the night (*r*) as they shall think fit: provided nevertheless, that no such visitor (*r*) shall make any such visitation or inspection except of a licenced house within their (*r*) jurisdiction.

(*p*) s. 14, *ante*.

(*q*) See also s. 16, *ante;* and as to the meaning of the word "Board," in relation to the meetings of the Commissioners, see 16 & 17 Vict. c. 96, s. 36, *post*.

(*r*) See s. 61, *ante;* and s. 62, *ante*. The word "visitor" in the proviso should apparently be "visitors," the related pronoun being "their."

The Person who signed the Order for the reception of a private Patient may order his Discharge or Removal.

LXXII. And be it enacted, that if and when any person who signed the order on which any patient (not being a pauper) was received into any licenced house or into any hospital shall by writing under his hand direct that such patient shall be discharged or removed, then and in such case such patient shall forthwith be discharged or removed, as the person who signed the order for his reception shall direct. (*s*)

Provisions for the Discharge of a private Patient when the Person who signed the Order for his reception is incapable.

LXXIII. And be it enacted, that if the person who signed the order on which any patient (not being a pauper) was received into any licenced house or into any hospital be incapable by reason of insanity or absence from England, or otherwise, of giving an order for the discharge or removal of such patient, or if such person be dead, then and in any of such cases the husband or wife of such patient, or if there be no such husband or wife, the father of such patient, or if there be no father, the mother of such patient, or if there be no mother, then any one of the nearest of kin for the time being of such patient, or the person who made the last payment on account of such patient, may by any writing under his or her hand give such direction as aforesaid for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed as the person giving such direction shall direct. (*t*)

Mode of Removal or Discharge of Pauper Patients.

LXXIV. And be it enacted, that the guardians of any parish or union may by a minute of their Board, or any officiating clergyman of any parish not under a Board of Guardians, and one of the overseers thereof, or any two justices of the county or borough in which such last-mentioned parish is situate, may by writing under the hands respectively of such clergyman and overseer or of such justices

(*s*) s. 73, *post*; s. 75, *post*. See also 16 & 17 Vict. c. 96, s. 19, *post*; and s. 20, *post*; 16 & 17 Vict. c. 97, s. 86, *post*: and 25 & 26 Vict. c. 111, s. 43, *post*.

(*t*) s. 72, and the note thereon, *ante*.

direct that any pauper patient belonging to such parish or union, and detained in any licenced house or any hospital, shall be discharged or removed therefrom, and may direct the mode of such discharge or removal; (*u*) and if a copy of such minute or such writing be produced to the proprietor or superintendent of such licenced house or such hospital, he shall forthwith discharge or remove such patient, or cause or suffer such patient to be discharged or removed accordingly. (*v*)

No Patient to be removed under any of the preceding Powers, if certified to be Dangerous, unless the Commissioners or Visitors consent, or for the purpose of Transfer to some other Asylum.

LXXV. Provided always, nevertheless, and be it enacted, that no patient shall be discharged or removed, under any of the powers hereinbefore contained, (*w*) from any licenced house or any hospital, if the physician, surgeon, or apothecary, (*x*) by whom the same shall be kept, or who shall be the regular medical attendant (*y*) thereof, shall by writing under his hand certify that in his opinion such patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless the Commissioners visiting such house or the visitors of such house shall, after such certificate shall have been produced to them, give their consent in writing that such patient shall be discharged or (*z*) removed; provided that nothing herein contained shall prevent any patient from being transferred from any licenced house or any hospital to any other licenced house or any other hospital, or to any asylum, but in such case every such patient shall be placed under the control of an attendant (*a*) belonging to the licenced house, hospital, or asylum to or from which he shall be about to be removed for the purpose

(*u*) See also 16 & 17 Vict. c. 97, s. 77, *post.*

(*v*) But see s. 75, *post;* and see also 16 & 17 Vict. c. 96, s. 19, *post.*

(*w*) ss. 72, 73, 74, *ante.*

(*x*) See note (*x*) to s. 57, *ante.*

(*y*) s. 114, *post.*

(*z*) Erroneously printed "and" in some impressions of the Act printed by the Queen's printer.

(*a*) 16 & 17 Vict. c. 96, s. 36, *post.*

of such removal, and shall remain under such control until such time as such removal shall be duly effected.

Commissioners may discharge any Patient confined in a House licenced by Themselves.

LXXVI. And be it enacted, that it shall be lawful for any two or more of the Commissioners to make visits to any patient (*b*) detained in any house licenced by the Commissioners, on such days and at such hours as they shall think fit; and if after two distinct and separate visits so made (seven days at least to intervene between such visits) it shall appear to such Visiting Commissioners that such patient is detained without sufficient cause, it shall be lawful for the Commissioners, if they shall think fit, to make such order as to the Commissioners shall seem meet for the discharge of such patient, and such patient shall be discharged accordingly.

Two Commissioners may make special Visits to discharge any Patient confined in a House licenced by Justices or in an Hospital.

LXXVII. And be it enacted, that it shall be lawful for any two or more of the Commissioners, of whom one shall be a physician and one a barrister, to make special visits to any patient (*b*) detained in any house licenced by the justices or in any hospital, on such days and at such hours as they shall think fit; and if after two distinct and separate visits so made (*c*) it shall appear to such Visiting Commissioners that such patient is detained without sufficient cause, they may make such order as to them shall seem meet for the discharge of such patient, and such patient shall be discharged accordingly.

Similar Powers for Two Visitors as to Houses within their Jurisdiction.

LXXVIII. And be it enacted, that it shall be lawful for any two or more of the visitors of any licenced house, of

(*b*) This section applies to a pauper as well as a private patient; the term "any patient," however, is in some respects limited by s. 81, *post*. It will be observed that the restrictions contained in ss. 79 and 80 do not apply to cases under s. 76.

(*c*) But see also ss. 79, 80, *post*.

whom one shall be a physician, surgeon, or apothecary, (*d*) to make special visits to any patient (*e*) detained in such house, on such days and at such hours as they shall think fit; and if after two distinct and separate visits so made (*f*) it shall appear to such visitors that such patient is detained without sufficient cause, they may make such order as to them shall seem meet for the discharge of such patient, and such patient shall be discharged accordingly.

Every Order for the Discharge of a Patient under the last preceding Powers to be signed by the Persons exercising them, and to be subject to certain Restrictions.

LXXIX. Provided always, and be it enacted, that every such order (*g*) by any Commissioners or visitors for the discharge of a patient from any house licenced by justices, or from any hospital, shall be signed by them, and that each of such special visits shall be by the same Commissioners or visitors; and that it shall not be lawful for such Commissioners or visitors to order the discharge of any patient from any such last-mentioned house or hospital without having previously, if the medical attendant (*h*) of such house or hospital shall have tendered himself for that purpose, examined him as to his opinion respecting the fitness of such patient to be discharged; and if such Commissioners or visitors shall, after so examining such medical attendant, (*h*) discharge such patient, and such medical attendant (*h*) shall furnish them with any statement in writing containing his reasons against the discharge of such patient, they shall forthwith transmit such statement to the Commissioners or to the clerk of the visitors, as the case may require, to be kept and registered in a book for that purpose.

The last preceding Powers to be exercised under certain other Restrictions.

LXXX. Provided also, and be it enacted, that not less than seven days shall intervene between the first and second

(*d*) See note (*x*) to s. 57, *ante*.
(*e*) This section applies to a pauper as well as a private patient. The term "any patient," however, is in some respects limited by s. 81, *post*.
(*f*) But see also ss. 79, 80, *post*.
(*g*) s. 77, *ante*; s. 78, *ante*.
(*h*) s. 114, *post*.

of such special visits; and that such Commissioners or visitors shall, seven days previously to the second of such special visits, give notice thereof, either by post or by an entry in the Patients' Book, (*i*) to the proprietor or superintendent of the house licenced by justices or of the hospital in which the patient intended to be visited is detained; and that such proprietor or superintendent shall forthwith, if possible, transmit by post a copy of such notice, in the case of a patient not being a pauper, to the person by whose authority such patient was received into such house, or by whom the last payment on account of such patient was made, and in the case of a pauper, to the guardians of his parish or union, or if there be no such guardians, to one of the overseers for the time being of his parish, and also in the case of any patient detained in a house licenced by justices, to the clerk of the visitors of such house.

Preceding Powers not to extend to Persons found Lunatic by Inquisition, or confined under authority of Secretary of State.

LXXXI. Provided always, nevertheless, and be it enacted, that none of the powers of discharge hereinbefore contained (*j*) shall extend to any person who shall have been found lunatic by inquisition (*k*) or under any inquiry directed by the Lord Chancellor, in pursuance of the powers in that behalf hereinafter given to him, (*l*) nor to any lunatic confined under any order or authority of Her Majesty's principal Secretary of State for the Home Department, or under the order of any Court of criminal jurisdiction. (*m*)

Power for Visitors and Visiting Commissioners to regulate the Dietary of Pauper Patients.

LXXXII. And be it enacted, that it shall be lawful for the visitors of any licenced house at any time to determine and regulate the dietary of the pauper patients therein; (*n*) and that it shall be lawful for the Visiting Commissioners at

(*i*) s. 66, *ante*.
(*j*) ss. 76–80, *ante*.
(*k*) Introduction, *ante*, pp. 4–26.
(*l*) ss. 95–98, *post*.
(*m*) See "Statutes relating to Criminal Lunatics," *post*.
(*n*) See s. 64, *ante*.

any time to determine and regulate the dietary of the pauper patients in any licenced house or in any hospital; (*n*) and that if such determination and regulation of any visitors and of the Visiting Commissioners shall not agree with each other, then the determination and regulation of the Visiting Commissioners shall be followed: provided always, nevertheless, that every such regulation shall be made to take effect only from such time as not to affect any contract existing on the first day of June last for the maintenance of pauper patients before the first day of June one thousand eight hundred and forty-six, or the expiration of such contract, whichever shall first happen.

Power for any Visitor to give an Order to the Clerk of the Visitors to search and give Information.

LXXXIII. And be it enacted, that if any person shall apply to any visitor in order to be informed whether any particular person is confined in any licenced house within the jurisdiction of such visitor, the said visitor, if he shall think it reasonable to permit such inquiry to be made, shall sign an order to the clerk of the visitors, and the said clerk shall, on receipt of such order, and on payment to him of a sum not exceeding seven shillings for his trouble, (*o*) make search amongst the returns made to him in pursuance of this Act whether the person inquired after is or has been within the then last twelve calendar months confined in any licenced house within the jurisdiction of such visitor; and if it shall appear that such person is or has been so confined the said clerk shall deliver to the person so applying a statement in writing, specifying the situation of the house in which the person so inquired after appears to be or to have been confined, and of the name of the proprietor or resident superintendent thereof, and also the date of the admission of such person into such licenced house, and (in case of his having been removed or discharged) the date of his removal or discharge therefrom.

(*n*) See s. 64, *ante*.

(*o*) This sum is to be paid to the clerk of the visitors, and to be kept by him, as a compensation for his trouble. He is not required to pay it over or account for it. In this respect it differs from the fee payable to the secretary of the Commissioners under the next section (s. 84), which is to be applied as directed in s. 33.

Power for any Commissioner to give an Order to the Secretary of the Commissioners to search and give Information whether any particular Person is or has been within twelve months confined in any House or Hospital.

LXXXIV. And be it enacted, that if any person shall apply to any Commissioner in order to be informed whether any particular person is confined in any licenced house, or in any hospital, asylum, or other place by this Act made subject to the visitation of the Commissioners, such Commissioner, if he shall think it reasonable to permit such inquiry to be made, shall sign an order to the secretary of the Commissioners, and the secretary shall, on the receipt of such order, and on payment to him of a sum not exceeding seven shillings (to be applied as hereinbefore provided), (*p*) make search amongst the returns made in pursuance of this Act, or of any of the Acts hereby repealed, whether the person inquired after is or has been within the last twelve calendar months confined in any house, hospital, asylum, or place by this Act made subject to the visitation of the Commissioners; and if it shall appear that such person is or has been so confined the secretary shall deliver to the person so applying a statement in writing, specifying the situation of the house, hospital, asylum, or place in which the person so inquired after appears to be or to have been confined, and also (so far as the said secretary can ascertain the same from any register or return in his possession) the name of the proprietor, superintendent, or principal officer of such house, hospital, asylum, or place, and also the date of the admission of such person into such licenced house, hospital, asylum, or other place, and (in case of his having been removed or discharged) the date of his removal or discharge therefrom.

Any one Commissioner or Visitor may give an Order for the admission to any Patient of any Friend or Relation, or any Person named by a Friend or Relation.

LXXXV. And be it enacted, that it shall be lawful for any one of the Commissioners, as to patients confined in any house, hospital, or other place (not being a gaol) hereby authorized to be visited by the Commissioners, and also for

(*p*) s. 33, *ante*.

any one of the visitors of any licenced house as to patients confined in such house, at any time to give an order in writing under the hand of such one Commissioner or visitor for the admission to any patient of any relation or friend of such patient (or of any medical or other person whom any relation or friend of such patient shall desire to be admitted to him), and such order of admission may be either for a single admission, or for an admission for any limited number of times, or for admission generally at all reasonable times, and either with or without any restriction as to such admission or admissions being in the presence of a keeper or not, or otherwise; (*q*) and if the proprietor or superintendent of any such house, hospital, or place shall refuse admission to, or shall prevent or obstruct the admission to any patient of, any relation, friend, or other person who shall produce such order of admission as aforesaid, he shall for every such refusal, prevention, or obstruction, forfeit a sum not exceeding twenty pounds. (*r*)

Proprietor or Superintendent, with consent of two Commissioners or Visitors, may take or send a Patient to any Place for his Health.

LXXXVI. And be it enacted, that it shall be lawful for the proprietor or superintendent of any licenced house or of any hospital, (*s*) with the consent in writing of any two of the Commissioners, or in the case of a house licenced by justices of any two of the visitors of such house, to send or take, under proper control, any patient to any specified place for any definite time for the benefit of his health: (*t*) provided always, nevertheless, that before any such consent as aforesaid shall be given by any Commissioners or visitors the approval in writing of the person who signed the order for the reception of such patient, or by whom the past (*u*) payment on account of such patient was made, shall be pro-

(*q*) As to letters written by private patients, see 25 & 26 Vict. c. 111, s. 40, *post*.

(*r*) s. 106, *post*.

(*s*) 18 & 19 Vict. c. 105, s. 17, *post*.

(*t*) s. 87, *post;* and see also 25 & 26 Vict. c. 111, s. 38, *post;* and Introduction, *ante*, p. 76.

(*u*) "last"? See s. 40, *ante;* s. 73, *ante;* s. 80, *ante*.

duced to such Commissioners or visitors, unless they shall, on cause being shown, dispense with the same.

In case of the Removal of a Patient, or of his Escape and Recapture within fourteen days, the original Order for his Reception to remain in force.

LXXXVII. And be it enacted, that in every case in which any patient shall, under any of the powers or provisions of this Act, be removed temporarily from the house or hospital into which the order for his reception was given, (*v*) or be transferred from such house or hospital into any new house, (*w*) and also in every case in which any patient shall escape from any house or hospital, and shall be retaken within fourteen days next after such escape, (*x*) the certificate or certificates relating to and the original order for the reception of such patient shall respectively remain in force, in the same manner as the same would have done if such patient had not been so removed or transferred, or had not so escaped and been retaken.

Commissioners to report to the Lord Chancellor periodically.

LXXXVIII. And be it enacted, that the Commissioners shall, at the expiration of every six calendar months, report to the Lord Chancellor the number of visits which they shall have made, the number of patients whom they shall have seen, and the number of miles which they shall have travelled during such months; and shall on the first day of January in each year make a return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other and what account, and shall also in the month of June (*y*) in every year make to the Lord Chancellor a report of the state and condition of the several houses, hospitals, asylums, and other places visited by them under this Act, and of the care of the patients therein, and of such other particulars as they shall think deserving of notice; and a true copy of such reports, showing the number of visits made, the

(*v*) s. 86, *ante*. See also 18 & 19 Vict. c. 105, s. 17, *post*; and 25 & 26 Vict. c. 111, s. 38, *post*.
(*w*) s. 40, *ante*.
(*x*) s. 99, *post*; s. 53, *ante*; and 25 & 26 Vict. c. 111, s. 39, *post*.
(*y*) 16 & 17 Vict. c. 96, s. 32, *post*.

number of patients seen, and the number of miles travelled, and also a copy of such return of sums received for travelling expenses, or on any other and what account, shall be laid before Parliament within twenty-one days next after the commencement of every session of Parliament.

Constitution of the Private Committee.

LXXXIX. *And be it enacted, that the permanent chairman for the time being of the Commissioners, and two other of the Commissioners to be appointed by the Lord Chancellor from time to time as occasion may require (one of whom shall be a physician or surgeon, and the other a barrister), shall be a committee, to be called "The Private Committee," for the purposes hereinafter mentioned.* [Repealed by 16 & 17 Vict. c. 96, s. 27, *post.*]

No Person (except a Person deriving no profit, or a Committee) to take Charge of a single Lunatic, except upon such Order and Medical Certificates as aforesaid, and under certain Obligations.

XC. And be it enacted, (*z*) that no person (unless he be a person who derives no profit from the charge, or a committee appointed by the Lord Chancellor) (*a*) shall receive to board or lodge in any house, other than an hospital registered under this Act, or an asylum, or a house licenced under this Act, or under one of the Acts hereinbefore repealed, (*b*) or take the care or charge of any one patient as a lunatic or alleged lunatic, without the like order and medical certificates in respect of such patients as are hereinbefore required on the reception of a patient (not being a pauper) into a licenced house; (*c*) and that every person (except a

(*z*) For an enumeration of the enactments relating to the class of cases here referred to, see Introduction, *ante*, p. 31; and also p. 37. The Commissioners in Lunacy, in 1870, obtained the opinion of the law officers of the Crown on eleven questions arising on the construction of this section. See their Twenty-fourth Report (1870), p. 58, and Appendix (N), p. 276.

(*a*) See Introduction, *ante*, p. 29.

(*b*) s. 1, *ante*.

(*c*) 16 & 17 Vict. c. 96, s. 8, *post*. As to an order by the committee in the case of a person found lunatic by inquisition, see 25 & 26 Vict. c. 111, s. 22, *post*, and Introduction, *ante*, pp. 29–31.

person deriving no profit from the charge, or a committee appointed by the Lord Chancellor) (*d*) who shall receive to board or lodge in any unlicenced house, not being a registered hospital or an asylum, or take the care or charge of any one patient as a lunatic or alleged lunatic, shall, within seven clear days after so receiving or taking such patient, (*e*) transmit to the secretary of the Commissioners a true and perfect copy of the order and medical certificates on which such patient has been so received, and a statement of the date of such reception, and of the situation of the house into which such patient has been received, and of the christian and surname and occupation of the occupier thereof, and of the person by whom the care and charge of such patient has been taken; (*f*) and every such patient shall at least once in every two weeks (*g*) be visited by a physician, surgeon, or apothecary, (*h*) not deriving, and not having a partner, father, son, or brother who derives any profit from the care or charge of such patient; (*i*) and such physician, surgeon, or apothecary (*h*) shall enter in a book, to be kept at the house or hospital (*j*) for that purpose, to be called "The Medical Visitation Book," (*k*) the date of each of his visits, and a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which such patient is, and such book shall be produced to the Visiting Commissioner on every visit, (*l*) and shall be signed by him as having been so produced; (*m*) and the person by whom the care or charge of such patient has been taken, or into whose house he has been received as aforesaid, shall transmit to the secretary of the Commissioners the same no-

(*d*) See Introduction, *ante*, p. 29.

(*e*) 25 & 26 Vict. c. 111, s. 28, *post*.

(*f*) 25 & 26 Vict. c. 111, s. 41, *post*.

(*g*) As to the cases of persons found lunatic by inquisition, in which this fortnightly visitation is dispensed with, see 25 & 26 Vict. c. 111, s. 22, *post*; and also Introduction, *ante*, pp. 31, 32. As to other cases, see 16 & 17 Vict. c. 96, s. 14, *post*.

(*h*) See note (*x*) to s. 57, *ante*.

(*i*) 16 & 17 Vict. c. 96, s. 14, *post*.

(*j*) The words "*or hospital*" seem to be inserted here by mistake.

(*k*) As to the form of this book, see Introduction, *ante*, pp. 33–35, and 25 & 26 Vict. c. 111, s. 42, *post*.

(*l*) s. 92, *post*.

(*m*) See also 16 & 17 Vict. c. 96, s. 16, *post*.

tices and statements of the death, (*n*) removal, (*o*) escape, (*p*) and recapture (*p*) of such lunatic, and within the same periods, as are hereinbefore (*q*) required in the case of the death, removal, escape and recapture of a patient (not being a pauper) received into a licenced house; (*r*) and that every person who shall receive into an unlicenced house, not being a registered hospital nor an asylum, or take the care or charge of any person therein as a lunatic, (*s*) without first having such order and medical certificates as aforesaid, or who, having received any such patient, shall not within the several periods aforesaid transmit to the secretary of the Commissioners such copy, statement, and notices as aforesaid, or shall fail to cause such patient to be so visited by a medical attendant as aforesaid, (*t*) and every such medical attendant who shall make an untrue entry in the said Medical Visitation Book, shall be guilty of a misdemeanor. (*u*)

Copy of the Order and Certificates, etc., with respect to Lunatics received into an Unlicenced House to be entered in a Private Register.

XCI. And be it enacted, that the secretary to the Commissioners shall preserve every copy transmitted as aforesaid (*v*) of the order and certificates for the reception of any patient as a lunatic into an unlicenced house, and every statement and notice which may be transmitted to such

(*n*) As to notice to Coroner, see 25 & 26 Vict. c. 111, s. 44, *post.*

(*o*) s. 93, *post.*

(*p*) s. 99, *post.*

(*q*) ss. 53, 54, 55, *ante;* and Introduction, *ante*, pp. 33–35.

(*r*) As to discharge, see 16 & 17 Vict. c. 96, ss. 17—21, *post;* and Introduction, *ante*, pp. 34, 35; and as to change of residence, and temporary absence, see 16 & 17 Vict. c. 96, s. 22, *post;* and as to transfer to care of another person, see 16 & 17 Vict. c. 96, s. 20, *post.*

(*s*) See the interpretation of this word in s. 114, *post.* In *Reg.* v. *Shaw* (11 Cox Crim. Cases, 109; 18 L. T. (N.S.) 583; 37 L. J. R. (N.S.), M. C. 112, L. R. 1 C. C. 145) it was held by the Court of Criminal Appeal that imbecillity arising from the decay of the faculties through old age or intemperance would constitute the patient a person of unsound mind, and consequently a lunatic within the meaning of s. 90. As to this case, see also the Twenty-Second Report of the Commissioners in Lunacy (1868), p. 58.

(*t*) As to ill-treatment, see 16 & 17 Vict. c. 96, s. 9, *post.*

(*u*) s. 106, *post;* s. 108, *post;* s. 114, *post.*

(*v*) s. 90, *ante.*

secretary with respect to any such patient as aforesaid, (*v*) and shall enter the same (in such form as the private committee (*w*) shall direct) in a book to be kept for that purpose, to be called "The Private Regster," and such private register shall be kept by such secretary in his own custody, and shall be inspected only by the members for the time being of the said private committee, (*w*) and by such other persons as the Lord Chancellor shall by writing under his hand appoint.

Members of the Private Committee to visit unlicenced Houses receiving a single Patient, and Report.

XCII. And be it enacted, that it shall be lawful for any one member of the said private committee, (*w*) on the direction of such committee, or of any two members thereof (of whom the one member aforesaid may be one), at all reasonable times to visit every or any unlicenced house in which one patient only is received as a lunatic (unless such patient be so received by a person deriving no profit from the charge, or by a committee appointed by the Lord Chancellor), (*x*) and to inquire (*y*) and report to the said private committee (*w*) on the treatment and state of health, both bodily and mental, of such patient; and a copy of every or any such report shall be entered in a private register, to be kept for that purpose, by the secretary of the Commissioners, and another copy thereof shall, if such private committee (*w*) think it expedient, be laid before the Lord Chancellor. (*a*)

The Lord Chancellor on such Report, and the Representation of the Private Committee, may order a Lunatic to be removed.

XCIII. And be it enacted, that it shall be lawful for the Lord Chancellor, on the representation of the said private committee (*w*) accompanied with a copy of a report made as last aforesaid (*b*) as to any patient received or detained as a

(*v*) s. 90, *ante*.

(*w*) See s. 89, *ante*; and 16 & 17 Vict. c. 96, s. 27, *post*; and Introduction, *ante*, p. 36.

(*x*) See Introduction, *ante*, p. 29.

(*y*) 25 & 26 Vict. c. 111, s. 35, *post*.

(*a*) See also ss. 112, 113, *post*; and 16 & 17 Vict. c. 96, s. 15, *post*.

(*b*) s. 92, *ante*.

lunatic in an unlicenced house as aforesaid, to make an order that such patient shall be removed from such house, and from the care and charge of the person under whose care and charge such lunatic may be; and any person detaining such lunatic in such house, or in such care or charge, for the space of three days after a copy of such order shall have been left at such house or served on such person, shall be guilty of a misdemeanor. (*c*)

Commissioners to Report if Property of Lunatics be not duly protected or applied.

XCIV. And be it enacted, that whenever the Commissioners shall have reason to suppose that the property of any person detained or taken charge of as a lunatic is not duly protected, or that the income thereof is not duly applied for his maintenance, such Commissioners shall make such inquiries relative thereto as they shall think proper, and report thereon to the Lord Chancellor. (*d*)

The Lord Chancellor to direct the Master in Lunacy to report as to the Lunacy of any Person detained as a Lunatic, and to appoint Guardians of his Person and Estate, and direct the application of his Income.

XCV. And be it enacted, (*e*) that when any person shall have been received or taken charge of as a lunatic upon an order and certificates, or an order and certificate, in pursuance of the provisions of this Act, or of any Act hereinbefore repealed, and shall either have been detained as a lunatic

(*c*) s. 106, *post*. See also 16 and 17 Vict. c. 96, s. 18, *post*.

(*d*) See Introduction, *ante*, pp. 22 and 26–28. Also, 16 & 17 Vict. c. 70, s. 54, *ante;* 16 & 17 Vict. c. 96, s. 23, *post;* and 25 & 26 Vict. c. 86, ss. 12–14, *ante*, as well as 25 & 26 Vict. c. 111, s. 35, *post*.

(*e*) See 15 & 16 Vict. c. 48, *post;* and 16 & 17 Vict. c. 70, s. 33, *ante;* and s. 103, *ante*. But see also Introduction, *ante*, pp. 22, 27, 37, and 16 & 17 Vict. c. 70, s. 53, *ante*, which restricted these proceedings to cases occurring before the commencement of that Act—viz., 28th October, 1853. In 1860, there were about 35 cases still being dealt with under this provision (see Mr. Elmer's evidence before the Select Committee of the House of Commons, 1860, Sess. Papers, No. 495, Appendix No. 3, p. 48).

for the twelve months then last passed, or shall have been the subject of a report by the Commissioners in pursuance of the provision lastly hereinbefore contained, it shall be lawful for the Lord Chancellor to direct that one of the said Masters in Lunacy shall, and thereupon one of the said Masters shall personally examine such person, and shall take such evidence and call for such information as to such Master shall seem necessary to satisfy him whether such person is a lunatic, and shall report thereon to the Lord Chancellor, and such report shall be filed with the secretary of lunatics; and it shall be lawful for the Lord Chancellor from time to time to make orders for the appointment of a guardian, or otherwise for the protection, care, and management of the person of any person who shall by any such report as last aforesaid be found to be a lunatic, and such guardian shall have the same powers and authorities as a committee of the person of a lunatic found such by inquisition now has, and also to make orders for the appointment of a receiver, or otherwise for the protection, care, and management of the estate of such lunatic, and such receiver shall have the same powers and authorities as a receiver of the estate of a lunatic found such by inquisition now has, and also to make orders for the application of the income of such lunatic, or a sufficient part thereof, for his maintenance and support, and in payment of the costs, charges, and expenses attending the protection, care, and management of the person and estate of such lunatic, (*f*) and also as to the investment or other application for the purpose of accumulation of the overplus, if any, of such income, for the use of such lunatic, as to the Lord Chancellor shall from time to time in each case seem fit: provided always, that such protection, care, and management shall continue only during such time as such lunatic shall continue to be detained as a lunatic upon an order and certificates or certificate as aforesaid, and for such further time, not exceeding six months, as the Lord Chancellor may fix: provided also, that it shall be lawful for the Lord Chancellor in any such case, either before or after directing such inquiry by such Master as aforesaid, and whether such Master shall have made a report as aforesaid or not, to direct a commission in the nature of a writ de lunatico

(*f*) *In re* Biddle, 23 L. J. R. (N.S.) ch. 23.

inquirendo to issue, to inquire of the lunacy of such person.

Masters in Lunacy to have all necessary Powers of Inquiry, and to make Inquiries referred to them.

XCVI. And be it enacted, that such Masters shall have power, in the prosecution of all inquiries and matters which may be referred to them as aforesaid or otherwise under this Act, to summon persons before them, and to administer oaths, and take evidence, either *vivâ voce* or on affidavit, and to require the production of books, papers, accounts, and documents; and that the Lord Chancellor may by any order (either general or particular) refer to the said Masters any inquiries under the provisions of this Act relating to the person and estate of any lunatic as to whom a report shall be made by a Master as aforesaid, in like manner as inquiries relating to the persons and estates of lunatics found such by inquisition are now referred to them.

XCVII. [Repealed by 32 & 33 Vict. c. 91. s. 34.]

XCVIII. [Repealed by 32 & 33 Vict. c. 91, s. 34.]

Proprietors, Superintendents, and other authorised Persons, may plead the Order and certificates for receiving any Lunatic in bar of all Proceedings at Law.

XCIX. And be it enacted, that every proprietor and superintendent of a licenced house or registered hospital, and every other person hereby or by any of the Acts hereinbefore repealed (*g*) authorised to receive or take charge of a lunatic upon an order, and who shall receive or has received a proper order, in pursuance of this Act or any of the said repealed Acts, (*g*) accompanied with the required medical certificates or certificate, for the reception or taking charge of any person as a lunatic, and the assistants and servants of such proprietor, superintendent, or other person, shall have power and authority to take charge of, receive, and detain such patient till he shall die, or be removed or discharged by due authority, and in case of the escape at any time or times of such patient to retake him at any time within fourteen days after such escape, and again to detain him as afore-

(*g*) s. 1, *ante*.

said; (*h*) and in every writ, indictment, information, action, and other proceedings (*i*) which shall be preferred or brought against any such proprietor, superintendent, or other person authorised as aforesaid, or against any assistant or servant of any such proprietor, superintendent, or authorised person, for taking, confining, detaining, or retaking any person as a lunatic, the party complained of may plead such order and certificates or certificate in defence to any such writ, indictment, information, action, or other proceeding as aforesaid, and such order and certificates or certificate shall, as respects such party, be a justification for taking, confining, detaining, or retaking such lunatic or alleged lunatic. (*j*)

Commissioners and Visitors may summon Witnesses to give Evidence, with a Penalty for Non-compliance.

C. And be it enacted, that it shall be lawful for the Commissioners, or any two of them, and also for the visitors of any licenced house, or any two of such visitors, from time to time, as they shall see occasion, to require, by summons (*k*) under the common seal of the commission, if by the Commissioners, and if by two only of the Commissioners, or by two visitors, then under the hands and seals of such two

(*h*) s. 53, *ante;* and s. 87, *ante.* See also 25 & 26 Vict. c. 111, s. 39, *post.*

(*i*) See also s. 105, *post*, and s. 56, *ante.*

(*j*) *Norris* v. *Seend*, 3 Exch. 782; 18 L. J. R. (N.S.) Ex. 300. 1. In a plea of justification under s. 99, for detention or recapture under a proper order and certificates, it is not necessary to aver that the person is a lunatic. 2. Such order and certificates afford a sufficient justification for taking and detaining a wife from her husband. 3. Held, upon special demurrer, that a plea of justification under s. 99 was not bad for not admitting or denying that the lunatic was the wife of the plaintiff, as in either case it justified the alleged trespass.

Fletcher v. *Fletcher*, 1 E. & E. 420; 28 L. J. R. (N.S.) Q. B. 134. The person ordering the confinement of an alleged lunatic in a licenced house is not protected by s. 99; and at common law he would only be justified if the person confined was, in fact, a lunatic. By Wightman, J. —The section "enumerates those who are to be protected, viz.:—the medical man, the keeper of the asylum and servants, leaving out the person signing the order for arrest."

Re Shuttleworth, 9 Q. B. 651.—See also note, (*f*), on s. 4 of 16 & 17 Vict. c. 96, *post.*

(*k*) As to examination without summons, see 25 & 26 Vict. c. 111, s. 46, *post.*

Commissioners or two visitors, as the case may be (according to the form in schedule (I) annexed to this Act, or as near thereto as the case will permit), any person to appear (*l*) before them to testify on oath (*m*) the truth touching any matters respecting which such Commissioners and visitors respectively are by this Act authorised to inquire (which oath (*m*) such Commissioners or visitors are hereby empowered to administer); and every person who shall not appear before such Commissioners or visitors pursuant to such summons, or shall not assign some reasonable excuse for not so appearing, or shall appear and refuse to be sworn (*m*) or examined, shall on being convicted thereof before one of Her Majesty's justices for the county or borough within which the place at which such person shall have been by such summons required to appear and give evidence is situate, shall for every such neglect or refusal forfeit a sum not exceeding fifty pounds. (*n*)

Provision for the Payment of Witnesses' Expenses.

CI. And be it enacted, that it shall be lawful for any Commissioners or visitors who shall summon (*o*) any person to appear and give evidence as aforesaid to direct the secretary of the Commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance in pursuance of such summons, the same to be considered as expenses incurred by such Commissioners and visitors respectively in the execution of this Act, and to be taken into account and paid accordingly. (*p*)

Upon Complaint made of any Offence against this Act, Justices to require the attendance of the Person charged, and adjudicate thereon.—Recovery of Penalties, and application thereof.

CII. And be it enacted, that every complaint or information of or for any offence against this Act, where any

(*l*) As to payment of expenses, see s. 101, *post.*
(*m*) As to affirmation, see s. 114, *post.*
(*n*) s. 106, *post.*
(*o*) s. 100, *ante.*
(*p*) ss. 33-35, *ante;* and ss. 36-38, *ante.*

pecuniary penalty is hereby imposed (except when hereby otherwise provided for), may be made before one justice; and when any person shall be charged upon oath before a justice for any such offence against this Act, such justice may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, and upon proof of the due service of the summons (either personally or by leaving the same at his last or usual place of abode), any two justices may either proceed to hear and determine the case, or may issue their warrant for apprehending such person, and bringing him before any two justices; and any two justices shall and may, upon the appearing of such person pursuant to such summons, or upon such person being apprehended with such warrant, or upon the non-appearance of such person, hear the matter of every such complaint or information, and make any such determination thereon as such justices shall think proper; (*q*) and upon conviction of any person such justices may, if they shall think fit, reduce the amount of the penalty by this Act imposed for such offence to any sum not less than one-fourth of the amount thereof, and shall and may issue a warrant under their hands and seals for levying such penalty or reduced penalty, and all costs and charges of such summons, warrant, and hearing, and all incidental costs and charges, by distress and sale of the goods and chattels of the person so convicted; and it shall be lawful for any such two justices to order any person so convicted to be detained and kept in the custody of any constable or other peace officer until return can be conveniently made to such warrant of distress, unless the said offender shall give security, to the satisfaction of such justices, by way of recognizance or otherwise, for his appearance before such justices on such day as shall be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security; but if upon the return of such warrant of distress it shall appear that no sufficient distress can be had whereupon to levy the said penalty, and such costs and charges as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such

(*q*) As to form of conviction, see s. 103, *post*; and as to appeal, see s. 104, *post*.

justices, either by the confession of the offender or otherwise, that the offender hath not sufficient goods and chattels whereupon the said penalty, costs, and charges may be levied, such justices shall and may, by warrant under their hands and seals, commit such offender to the common gaol or house of correction for any term not exceeding three calendar months, unless such penalty, and all such costs and charges as aforesaid, shall be sooner paid; and all such penalties, when recovered, shall be paid, when the complaint or information shall be laid or brought by or by the direction of the Commissioners, (*r*) to the secretary of the Commissioners, to be by him applied and accounted for as hereinbefore directed with respect to monies received for licences granted by the Commissioners, (*s*) and when the complaint or information shall be laid or brought by the direction of any visitors, (*t*) to the clerk of the peace for the county or borough, to be by him applied and accounted for as hereinbefore directed with respect to monies received for licences granted by the justices of such county or borough; (*t*) and the overplus (if any) arising from such distress and sale, after payment of the penalty and all costs and charges as aforesaid, shall be paid, upon demand, to the owner of the goods and chattels so distrained.

Form of Conviction before Justices.

CIII. And be it enacted, that the justices before whom any person shall be convicted of any offence against this Act for which a pecuniary penalty is imposed may cause the conviction to be drawn up in the following form, or in any other form to the same effect, as the case may require; and that no conviction under this Act shall be void through want of form:

"BE it remembered, that on the day of at in the year of our Lord in the county [*or* borough] of *A. B.* was convicted before us, of Her Majesty's Justices of the Peace for the said county [*or*

(*r*) s. 106, *post.*
(*s*) ss. 33, 34, *ante.*
(*t*) ss. 36, 37, *ante.*

borough], for that he the said did
and we the said adjudge the
said for his offence to pay the sum of ."

Appeal to Quarter Sessions.

CIV. Provided always, and be it enacted, that any person who shall think himself aggrieved by any order or determination of any justices under this Act may, within four calendar months after such order made or given, (*u*) appeal to the justices at general or quarter sessions, the person appealing having first given at least fourteen clear days' notice in writing of such appeal, and the nature and matter thereof, to the person appealed against, and forthwith after such notice entering into a recognizance before some justice, with two sufficient sureties, conditioned to try such appeal, and to abide the order and award of the said Court thereupon; and the said justices at general or quarter sessions, upon the proof of such notice and recognizance having been given and entered into, shall in a summary way hear and determine such appeal, or, if they think proper, adjourn the hearing thereof until the next general or quarter sessions, and, if they see cause, may mitigate any penalty to not less than one-fourth of the amount imposed by this Act, and may order any money to be returned which shall have been levied in pursuance of such order or determination, and shall and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties, as they shall judge reasonable and proper; and all such determinations of the said justices at general or quarter sessions shall be final, binding, and conclusive upon all parties to all intents and purposes whatsoever.

Actions to be commenced within Twelve (v) calendar Months.—Act may be given in Evidence.

CV. And be it enacted, that if any action or suit shall be brought against any person for any thing done in pursuance of this Act or of any of the Acts hereby repealed, (*w*) the same

(*u*) ss. 102, 103, *supra*. *Reg.* v. *JJ. of Derbyshire*, 9 Jur. 551.
(*v*) Erroneously printed "six" in some impressions of the Act printed by the Queen's printer.
(*w*) s. 1, *ante*.

shall be commenced within twelve calendar months next after the release of the party bringing the action, and shall be laid or brought in the county or borough where the cause of action shall have arisen, and not elsewhere; and the defendant in every such action or suit may, at his election, plead specially (*x*) or the general issue not guilty, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; (*x*) and if the same shall appear to be so done, or that such action or suit shall be brought in any other county or borough than as aforesaid, or shall not have been commenced within the time before limited for bringing the same, then the jury shall find a verdict for the defendant; and upon a verdict being so found, or if the plaintiff shall be nonsuited, or discontinue his action or suit after the defendant shall have appeared, or if upon demurrer judgment shall be given against the plaintiff, then the defendant shall recover double costs (*y*) and have such remedy for recovering the same as any defendant hath or may have in any other cases by law.

Offenders to be prosecuted, and Penalties sued for by the Secretary of the Commissioners and the Clerk of any Visitors, and by no person without the authority of the Commissioners or Visitors.

CVI. And be it enacted, that it shall be lawful for the secretary of the Commissioners, on their order, to prosecute any person for any offence against the provisions of this Act, and to sue for and recover any penalty to which any person is made liable by this Act; and all penalties sued for and recovered by such secretary shall be paid to him, and be by him applied and accounted for as hereinbefore directed with respect to monies received for licences granted by the Commissioners; (*z*) and that it shall be lawful for the clerk of any visitors, on their order, to prosecute any person for any offence against the provisions of this Act committed within the jurisdiction of such visitors, and to sue for and

(*x*) See s. 99, *ante;* and s. 56, *ante.*

(*y*) The 5 & 6 Vict. c. 97, s. 2, which was passed in 1842, and repealed all statutory provisions giving double or treble costs, does not apply to the present statute, which was passed in 1845.

(*z*) ss. 33, 34, *ante.* See also s. 102, *ante.*

recover any penalty to which any person within the jurisdiction of such visitors is made liable by this Act; and all penalties sued for and recovered by any such clerk shall be paid to him, and be by him paid to the clerk of the peace for such county or borough, and be by such clerk of the peace applied and accounted for as hereinbefore directed with respect to monies received for licences by such clerk of the peace; (*a*) and it shall not be lawful for any one to prosecute any person for any offence against the provisions of this Act, or to sue for any penalty to which any person is made liable by this Act, except by order of the Commissioners or of visitors having jurisdiction in the place where the cause of prosecution has arisen or the penalty been incurred, or with the consent of Her Majesty's Attorney-General or Solicitor-General for England for the time being. (*b*)

Offenders against the Provisions of any of the repealed Acts may be prosecuted under this Act.

CVII. And be it enacted, that, notwithstanding the repeal of the several Acts hereinbefore repealed, (*c*) every offence heretofore committed against any of the provisions of any of the same Acts may be prosecuted, and every penalty heretofore incurred by any person for any offence against the provisions of any of the same Acts may be sued for and recovered, by the secretary of the Commissioners, in the same manner and with all the same powers and rights as if such offence had been committed or such penalty incurred for an offence against the provisions of this Act; and every penalty so recovered shall be applied in the same manner as a penalty recovered for an offence against the provisions of this Act. (*d*)

No Person to be punishable for omitting to send any Copy, etc., if proved to have been put in the Post, or left at the proper Office.

CVIII. And be it enacted, that when any person shall be proceeded against, under the provisions of this Act, for omitting to transmit or send any copy, list, notice, statement,

(*a*) ss. 36, 37, *ante*. See also s. 102, *ante*.
(*b*) See also s. 56, *ante*; and *Reg.* v. *Burnby*, 5 Q. B. 348.
(*c*) s. 1, *ante*.
(*d*) s. 102, *ante*, and s. 106, *ante*.

or other document hereinbefore required to be transmitted or sent by such person, and such person shall prove by the testimony of one witness upon oath (*e*) that the copy, list, notice, statement, or document in respect of which such proceeding is taken was put into the post in due time, or (in case of documents required to be transmitted or sent to the Commissioners or a clerk of the peace) left at the office of the Commissioners or of the clerk of the peace, and shall have been properly addressed, such proof shall be a bar to all further proceeding in respect of such omission.

Costs incurred by the Commissioners to be paid by their Secretary, and Costs incurred by Visitors by the Clerk of the Peace.

CIX. And be it enacted, that the costs, charges, and expenses incurred by or under the authority or order of the Commissioners in proceedings under this Act shall be paid by the secretary of the Commissioners, and included by him in the account of receipts and payments hereinbefore directed to be kept by him; (*f*) and that the costs, charges, and expenses incurred by or under the order of any visitors in proceedings under this Act shall be paid by the clerk of the peace of their county or borough, and included by him in the account of receipts and payments hereinbefore directed to be kept by him. (*g*)

Commissioners to visit Asylums and Gaols.

CX. And be it enacted, that two or more of the Commissioners, one at least of whom shall be a physician or surgeon, and one at least a barrister, shall and may, once or oftener in each year, on such day or days, and at such hours of the day, (*h*) and for such length of time as they shall think fit, visit every asylum for lunatics, (*i*) and every gaol (*j*) in

(*e*) s. 114, *post*.
(*f*) ss. 33, 34, *ante*.
(*g*) ss. 36, 37, *ante*.
(*h*) The provision in s. 71, *ante*, as to visits by night, is confined to hospitals and licenced houses.
(*i*) See "Statutes relating to Pauper Lunatics," *post;* and as to the meaning of "Asylum," see s. 114, *post*. See also s. 113, *post*, and 25 & 26 Vict. c. 111, s. 30, *post*.
(*j*) As to jails and prisoners, see also ss. 112, 113, *post;* and 25 & 26 Vict. c. 111, s. 30, *post;* as well as "Statutes relating to Criminal Lunatics," *post*.

which there shall be or alleged to be any lunatic, and shall inquire whether the provisions of the law have been carried out as to the construction of each asylum visited, and as to its visitation and management, and also as to the regularity of the admissions and discharges of patients therein and therefrom; and whether Divine service is performed therein; and whether any system of coercion is in practice therein, and the result thereof; and as to the classification or non-classification of patients therein, and the number of attendants on each class; and as to the occupations and amusements of the patients, and the effects thereof; and as to the condition, as well mental as bodily, of the pauper patients when first received; and also as to the dietary of the pauper patients; and shall also make such other inquiries as to every or any such asylum, and all such inquiries as to the lunatics in any gaol, as to such visiting Commissioners shall seem meet.

CXI. [Repealed by 16 & 17 Vict. c. 96, s. 28, *post.*]

Provision for the Visitation of Lunatics under the Care of Committees, and also of State and Criminal Lunatics, and other Lunatics, not comprised in the preceding Provisions.

CXII. And be it enacted, that it shall be lawful for the Lord Chancellor, in the case of any lunatic under the care of a committee appointed by the Lord Chancellor (*k*), or Her Majesty's principal Secretary of State for the Home Department, in the case of any lunatic under the care of any person receiving or taking the charge of such one lunatic only, and deriving no profit from the charge, (*l*) and in the case of any person confined as a state lunatic, (*m*) or as a lunatic under the order of any criminal court of justice, (*m*) and in the case of every other person detained or taken charge of as a lunatic, or represented to be a lunatic, or to be under any restraint as a lunatic, (*n*) at any time, by an order in writing under the hand of the Lord Chancellor or the said

(*k*) See Introduction, *ante*, p. 29; and also p. 23, as well as the Acts 16 & 17 Vict. c. 70, and 25 & 26 Vict. c. 86, there referred to.

(*l*) See Introduction, *ante*, p. 28; and also p. 23; as well as s. 92, *ante*.

(*m*) See "Statutes relating to Criminal Lunatics," *post*; and also s. 81, *ante*.

(*n*) These terms seem to comprehend all cases of lunatics or alleged lunatics, wherever confined.

Secretary of State, as the case may be, directed to the Commissioners or any of them, or to any other person, to require the persons or person to whom such order shall be directed, or any of them, to visit and examine such lunatic or supposed lunatic, and to make a report to the Lord Chancellor, or to Her Majesty's principal Secretary of State for the Home Department, of such matters as in such order shall be directed to be inquired into. (*o*)

Power for the Lord Chancellor and Secretary of State for the Home Department to authorize a special visitation of any Place where a Lunatic is represented to be confined.

CXIII. And be it enacted, that it shall be lawful for the Lord Chancellor or Her Majesty's principal Secretary of State for the Home Department to employ any Commissioner appointed under this Act, or other person, to inspect or inquire into the state of any asylum, hospital, gaol, house, or place wherein any lunatic, or person represented to be lunatic, shall be confined or alleged to be confined, and to report to him the result of such inspection and inquiry; (*p*) and every such person so employed, and not being a Commissioner, may be paid such sum of money for his attendance and trouble as to the Lord Chancellor or Her Majesty's principal Secretary of State for the Home Department shall seem reasonable; and every such person so employed, whether a Commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed; and such sum of money for attendance and trouble, and such expenses, shall be charged on and shall be paid out of the Contingency Fund of the Home Office. (*q*)

Interpretation Clause.

CXIV. And be it enacted, that in this Act and the schedules thereto the words and expressions following shall have the several meanings hereby assigned to them, unless there shall be something in the subject or context repugnant to such construction; (*r*) (that is to say),

(*o*) 16 & 17 Vict. c. 96, ss. 33, 34, *post*. See also *re* Knight, L. J. R. (N.S.) ch. 230.
(*p*) 25 & 26 Vict. c. 111, s. 31, *post*.
(*q*) 16 & 17 Vict. c. 96, ss. 33, 34, *post*.
(*r*) 16 & 17 Vict. c. 96, ss. 36, 37, *post*; 18 & 19 Vict. c. 105, s. 19, *post*; 25 & 26 Vict. c. 111, ss. 1, 2, *post*, and s. 47, *post*.

"Borough" shall mean every borough, town, and city corporate having a separate quarter sessions, recorder, and clerk of the peace: (*s*)

"County" shall mean every county, riding, division of a county, county of a city, county of a town, liberty, and other place having a separate commission of the peace, and not being a "Borough" within the meaning aforesaid. (*s*)

"The Lord Chancellor" shall mean the Lord High Chancellor, the Lord Keeper or Commissioners of the Great Seal of Great Britain, and other the person or persons for the time being intrusted, by virtue of the Queen's sign-manual, with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind:

"Barrister" shall mean a barrister and a serjeant-at-law; and a serjeant-at-law who shall have been called to the bar five years or more before his appointment to be a Commissioner shall be considered as a barrister of five years' standing:

"Lunatic" shall mean every insane person, and every person being an idiot or lunatic or of unsound mind: (*t*)

"Parish" shall mean any parish, township, or hamlet, vill, tithing, extra-parochial place, or place maintaining its own poor:

"Officiating Clergyman of a [*or* the] Parish" shall mean a clergyman regularly officiating and acting as the minister, or one of the ministers of a parish, chapelry, or ecclesiastical district: (*u*)

"Borough Rate" shall mean a borough rate, and any funds assessed upon or raised in or belonging to any borough in the nature of a borough rate, and applicable to the purposes to which borough rates are applicable:

"County Rate" shall mean a county rate, and any funds assessed upon or raised in or belonging to any county in the nature of a county rate, and applicable to the purposes to which county rates are applicable:

(*s*) See also s. 115, *post*.

(*t*) See *Reg.* v. *Shaw*, L. R., 1 C. C. 145; 37 L. J. R. (N.S.) M. C. 112; 18 L. T. (N.S.) 583; 11 Cox Crim. Cases, 109.

(*u*) 16 & 17 Vict. c. 96, s. 36, *post*.

"Pauper" shall mean every person maintained wholly or in part at the expense of any parish, union, county, or borough:

"Patient" shall mean every person received or detained as a lunatic, or taken care or charge of as a lunatic:

"Private Patient" shall mean every patient who is not a pauper:

"Proprietor" shall mean every person to whom any licence has been granted under the provisions of any Act hereby repealed, (*v*) or shall be granted under the provisions of this Act, and every person keeping, owning, having any interest or exercising any duties or powers of a proprietor in any licenced house:

"Clerk of the Peace" shall mean every clerk of the peace and person acting as such, and every deputy duly appointed:

"Medical Attendant" shall mean every physician, surgeon, and apothecary (*w*) who shall keep any licenced house, or shall in his medical capacity attend any licenced house, or any asylum, hospital, or other place where any lunatic shall be confined:

"Justice" shall mean a justice of the peace:

"Asylum" shall mean (*x*) any lunatic asylum already erected and established under an Act passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled "An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England," or erected and established, or hereafter to be erected and established, or which have been made subject or liable to any of the provisions of an Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act to amend the laws for the erection and Regulation of County Lunatic Asylums, and more effectually to provide for the Care and Maintenance of Pauper and Criminal Lunatics, in England," or hereafter to be erected and established under the provisions of any

(*v*) s. 1, *ante*.

(*w*) 16 & 17 Vict. c. 96, s. 36, *post*; 17 & 18 Vict. c. 114, s. 2, *post*; 25 & 26 Vict. c. 111, s. 47, *post*.

(*x*) 25 & 26 Vict. c. 111, ss. 1, 2, *post*.

Act for the erection or regulation of county or borough lunatic asylums:

"Hospital" shall mean (*y*) any hospital or part of an hospital or other house or institution (not being an asylum) wherein lunatics are received, and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients:

"Licenced House" shall mean a house licenced under the provisions of this Act, or of some Act hereby repealed, (*z*) for the reception of lunatics:

"Oath" shall mean an oath, and every affirmation or other declaration or solemnity lawfully substituted for an "oath" in the case of Quakers or other persons exempted by law from the necessity of taking an oath:

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

Boroughs and Counties to comprise all Places therein not having separate Commission of the Peace.

CXV. And be it enacted that for the purposes of this Act every borough and county shall include every place situate within the limits of such borough or county, and not having a separate commission of the peace; (*a*) and for the purposes of this Act every place situate within the limits of any borough or county, and not having a separate commission of the peace, shall be within the jurisdiction of the justices of such borough or county; (*a*) and that the justices of every borough shall, for the purposes of this Act, assemble in special sessions at such times as the quarter sessions for such borough shall be holden; and that all acts hereinbefore required to be done by the justices of counties in general or quarter sessions assembled may be done by the justices of boroughs at such special sessions.

(*y*) 25 & 26 Vict. c. 111, ss. 1, 2, *post*.
(*z*) s. 1, *ante*.
(*a*) s. 114, *ante*.

Act not to extend to Bethlehem Hospital.

CXVI. *And be it enacted, that nothing in this Act contained shall extend to the Royal Hospital of Bethlehem, or any building adjacent thereto and used therewith; (b) provided always, that it shall be lawful for any Commissioner or other person whom the Lord Chancellor or any one of Her Majesty's principal Secretaries of State shall at any time, by an order in writing under the hand of the said Lord Chancellor or Secretary of State, direct, to visit and inspect the Royal Hospital of Bethlehem, and every or any building adjacent thereto as aforesaid, and every or any person confined therein.* (c) [Repealed by 16 & 17 Vict. c. 96, s. 35, *post.*]

Act to be confined to England and Wales.

CXVII. And be it enacted, that this Act shall extend only to England and Wales.

Alteration of Act.

CXVIII. And be it enacted that this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A), Section 30. (d)

FORM OF LICENCE.

KNOW all men, that We, the Commissioners in Lunacy, [*or* We the undersigned Justices of the Peace, acting in and for in general [*or* quarter *or* special] sessions assembled], do hereby certify, that *A.B.* of in the Parish of in the County of hath delivered to us [*or* the Clerk of the Peace] a plan and description of a House and Premises proposed to be licenced

(*b*) See s. 43, *ante.*
(*c*) See Seventh Report of the Commissioners in Lunacy, June 30, 1852, pp. 14–19.
(*d*) See also 25 & 26 Vict. c. 111, s. 14, *post*, and schedule A, annexed to that Act, *post.*

for the reception of lunatics, situate at in the County of [*or, in the case of a renewed licence,* hath delivered to us [*or* the Clerk of the Peace] a list of the number of Patients now detained in a house and premises licenced on the day of last, for the reception of Lunatics, situate at in the County of], and we, having considered and approved the same, do hereby authorise and empower the said *A. B.*, (he intending [*or* not intending] to reside therein) (*e*) to use and employ the said House and Premises for the reception of male [*or* female, *or* male and female] Lunatics, of whom not more than shall be Private Patients, for the space of calendar months from this date.

Sealed with our common seal [*or* given under our hands and seals], this day of in the year of our Lord one thousand eight hundred and .

Witness,
Y. Z., Secretary to the Commissioners in Lunacy,
[*or* Clerk of the Peace.]

SCHEDULE (B), Section 45.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.

[Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

SCHEDULE (C), Section 45.

FORM OF MEDICAL CERTIFICATE IN THE CASE OF PRIVATE PATIENTS.

[Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

SCHEDULE (D), Section 48.

ORDER FOR THE RECEPTION OF A PAUPER PATIENT.

[Repealed by 16 & 17 Vict. c. 96, s. 3, *post.*]

(*e*) See Introduction, *ante*, p. 46.

SCHEDULE (E),

REGISTRY OF

REGISTER OF

Date of last previous Admission (if any).	No. in Order of Admission.	Date of Admission.	Christian and Surname at Length.	Sex and Class.				Age.	Condition as to Marriage.			Condition of Life and previous Occupation.	Previous Place of Abode.	County, Union, or Parish to which chargeable.		By whose Authority sent.
				Private.		Pauper.			Married.	Single.	Widowed.					
				M.	F.	M.	F.									
	1	1846: Jan. 3	William Johnson	–	–	1	–	23	–	1	–	Carpenter.	–	–	–	–
	2															
	3															
	4	1848: June 9	William Johnson	–	–	1	–	25	–	1	–	–	–	–	–	–
	5															
	6															
	7	1852: May 6	William Johnson	–	–	1	–	29	1	–	–	–	–	–	–	–
	8															

Section 50.

ADMISSIONS.

PATIENTS.

Dates of Medical Certificates, and by whom signed.	Bodily Condition.	Name of Disorder (if any).	Form of Mental Disorder.	Supposed Cause of Insanity.	Epileptics.	Congenital Idiots.	Duration of existing Attacks.			Number of previous Attacks.	Age on first Attack.	Date of Discharge, or Death.	Discharged.				Observations.
							Year.	Months.	Weeks.				Recovered.	Relieved.	Not improved.	Died.	
–	–	–	–	Melancholia	–	–	–	4	–	2	17	1846: Sept. 1	1				
–	–	–	–	–	–	–	7	–	–	3	–	1848: Dec. 2	1				
–	–	–	–	–	–	–	3	–	–	4	–	1853: June 8					

SCHEDULE (F). Section 52.—NOTICE OF ADMISSION. STATEMENT.

[Superseded by 16 & 17 Vict. c. 96, s. 24 (*post*); and Schedule C (*post*).]

SCHEDULE (G 1). Section 54.—REGISTER OF DISCHARGES AND DEATHS.

Date of Discharge or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex and Class.				Discharged.						Died.		Assigned Cause of Death.	Age at Death.		Observations.
				Private.		Pauper.		Recovered.		Relieved.		Not improved.							
				M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		M.	F.	
1846: Sept. 1.	1846: Jan. 3.	1	William Johnson	–	–	1	–	1											
1848: Dec. 2.	1848: June 9.	4	William Johnson	–	–	1	–	1											
1853: June 8.	1852: May 6.	7	William Johnson	–	–	1	–	–	–	–	–	–	–	1	–	Phthisis	27		

SCHEDULE (G 2), Section 54.

Form of Notice of Discharge or Death.

I hereby give you Notice, that a Private [*or* Pauper] Patient, received into this House [*or* Hospital] on the day of was discharged therefrom recovered [*or* relieved, *or* not improved], by the authority of [*or* died therein, on the day of].

(Signed)
Superintendent [*or* Proprietor] of House [*or* Hospital] at .

Dated this day of one thousand eight hundred and

In case of death, add "and I further certify, that *A.B.* was present at the death of the said ; and that the apparent cause of death of the said [ascertained by post mortem examination (*a*) [*if so*] was ."

SCHEDULE (H), Section 59.

Form of Medical Journal and Weekly Report.

[Superseded by 16 & 17 Vict. c. 96, s. 25 (*post*), and Schedule D (*post*).]

SCHEDULE (I), Section 100.

Form of Summons.

We, the Commissioners in Lunacy [*or* we whose names are hereunto set and seals (*b*) affixed, being two of the Commissioners in Lunacy, *or* Visitors (*b*)] appointed under or by virtue of an Act passed in the year of the reign of Her present Majesty, intituled [*here insert the title of the Act*], do hereby summon and require you personally to appear before us at in the Parish of in the County of on next, the day of at the hour of in the noon of the same day, and

(*a*) Whenever practicable, the consent of the relatives should be obtained, before proceeding with such examination.

(*b*) As to visitors, see 18 & 19 Vict. c. 105, s. 15, *post*.

then and there to be examined, and to testify the truth touching certain matters relating to the execution of the said Act.

Sealed with the common seal of "The Commissioners in Lunacy," [*or* given under our hands and seals (*c*),] this day of in the year of our Lord one thousand eight hundred and .

(*c*) As to visitors, see 18 & 19 Vict. c. 105, s. 15, *post*.

15 & 16 Vict. c. 48.

An Act for the Amendment of the Law respecting the Property of Lunatics.

[30*th June*, 1852.

I. } [Repealed, except so far as the same relate to Ire-
II. } land, by 16 & 17 Vict. c. 70, s. 1 (*ante*): See also
III. } 34 & 35 Vict. c. 22, s. 118.]

8 & 9 *Vict. c.* 100. *s.* 95.

IV. And whereas by an Act of Parliament passed in the ninth year of the reign of Her present Majesty Queen Victoria, intituled "An Act for the Regulation of the Care and Treatment of Lunatics," (*a*) it was enacted, that when any person should have been received or taken charge of as a lunatic upon an order and certificates, or an order and certificate, in pursuance of the provisions of the said Act, or of any Act thereby repealed, and should either have been detained as a lunatic for the twelve months then last past, or should have been the subject of a report by the Commissioners in pursuance of the provision therein contained, it should be lawful for the Lord Chancellor to direct that one of the Masters in Lunacy should, and thereupon one of the said Masters should, personally examine such person, and should take such evidence and call for such information as to such Master should seem necessary to satisfy him whether such person was a lunatic, and should report thereon to the Lord Chancellor, and such report should be filed with the Secretary of Lunatics; and it should be lawful for the Lord Chancellor from time to time to make orders for the appointment of a guardian, or otherwise for the protection, care, and management of the person of any person who should by any such report as last aforesaid be found to be a lunatic, and such guardian should have the same powers and

(*a*) See 8 & 9 Vict. c. 100, s. 95, and the note thereon, *ante*, and also 16 & 17 Vict. c. 70, s. 53, *ant*.

authorities as a committee of the person of a lunatic found such by inquisition then had, and also to make orders for the appointment of a receiver, or otherwise for the protection, care, and management of the estate of such lunatic, and such receiver should have the same powers and authorities as a receiver of the estate of a lunatic found such by inquisition then had, and also to make orders for the application of the income of such lunatic, or a sufficient part thereof, for his maintenance and support, and in payment of the costs, charges, and expenses attending the protection, care, and management of the person and estate of such lunatic, and also as to the investment or other application for the purpose of accumulation of the overplus, if any, of such income, for the use of such lunatic, as to the Lord Chancellor should from time to time in each case seem fit: and whereas doubts have arisen whether the last-mentioned Act extends to authorise a receiver appointed as aforesaid to receive dividends on government or bank stock or annuities standing in the lunatic's name, and it is expedient that these doubts should be removed: be it therefore enacted as follows:—

Power to receive Dividends of Stock in Lunatic's Name.

Every receiver of the estate of such lunatic as aforesaid, already appointed, or who may be hereafter appointed under the powers in the said last-recited Act, shall have full power to demand, and to receive and to give effectual receipts for, the dividends due or to become due of any stock belonging to the lunatic.

Indemnity to Bank of England, etc.

V. This Act shall be and is hereby declared to be a full and complete indemnity and discharge to the Governor and Company of the Bank of England, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto, and such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

Receiver may, under Order, make Repairs, Leases, etc.

VI. The person or persons for the time being intrusted as aforesaid may, by order upon a petition, direct the receiver to make such repairs and improvements of or upon the land

of the lunatic, or to make to the tenant executing the same such allowance in respect thereof by and out of the lunatic's income, and also to make and execute such contracts, agreements, leases, or under-leases of or concerning the same, as may seem expedient for the preservation or increase of the income; and every act done according to such direction as aforesaid shall be valid and binding to all intents and upon all persons whomsoever.

Interpretation of Words.

VII. In the construction of those provisions of this Act which refer to the secondly-mentioned Act, (*b*) the words "Land," "Stock," and "Dividends" respectively shall be interpreted as is provided for the like words in the first-mentioned Act. (*c*)

(*b*) *i.e.*, 8 & 9 Vict. c. 100: see s. 4, *ante*, p. 261.

(*c*) *i.e.*, 11 Geo. iv. & 1 Wm. iv. c. 65; which was recited in the preamble to s. 1 of the present Act.

16 & 17 Vict. c. 96.

An Act to amend an Act passed in the ninth year of Her Majesty, "for the Regulation of the Care and Treatment of Lunatics."

[20*th August*, 1853.

8 & 9 *Vict. c.* 100.

Whereas an Act was passed in the ninth year of Her Majesty, "for the Regulation of the Care and Treatment of Lunatics:" and whereas it is expedient to amend the said Act as hereinafter mentioned: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 25 of recited Act repealed, and Provision as to what may be included in one Licence.

I. Section twenty-five of the said recited Act shall be repealed, (*a*) and any one licence to be granted for the reception of lunatics may, in the discretion of the Commissioners or justices granting such licence, include two or more houses belonging to one proprietor or to two or more joint proprietors, provided that no one of such houses be separated from the other or others of them otherwise than by land in the same occupation, and by a road, or by either of such modes; and all houses, buildings, and lands intended to be included in any licence shall be specified, delineated, and described in the plan required by section twenty-four of the said recited Act. (*b*)

(*a*) See Seventh Report of the Commissioners in Lunacy, 30th June, 1852, p. 28.

(*b*) 8 & 9 Vict. c. 100, s. 24, *ante*, and 25 & 26 Vict. c. 111, s. 14, *post*.

The Person or one of the Persons receiving a Licence to reside on the Premises.

II. No person having, after the passing of the said recited Act, received for the first time a licence for the reception of lunatics, or hereafter receiving for the first time such licence, shall receive a licence unless he shall reside on the premises licenced; and no two or more persons having after the passing of the said recited Act received for the first time a joint licence for the reception of lunatics, or hereafter receiving for the first time such licence, shall receive such licence unless they or one of them shall reside on the premises licenced. (*c*)

Sections 45, 46, 47, 48, *and* 49 *of* 8 & 9 *Vict. c.* 100, *repealed.*

III. Sections forty-five, forty-six, forty-seven, forty-eight, and forty-nine of the said recited Act shall be repealed; but such repeal shall not prevent or defeat any prosecution for any offence committed before the commencement of this Act, and every such offence shall and may be prosecuted, and every pending prosecution continued, as if this Act had not been passed.

No Person not a Pauper to be received into a Hospital or Licenced House without a certain Order and Certificates.

IV. Save as hereinafter otherwise provided, (*d*) no person (not being a lunatic) for or in respect of whom any money shall be paid or agreed to be paid shall be boarded or lodged in any licenced house; and, save where otherwise provided or authorized under this or any other Act, no person (not being a pauper) shall be received as a lunatic into any licenced house or hospital without an order (*e*) under the hand of some person (*f*) according to the

(*c*) See Introduction, *ante*, pp. 46, 52; and 8 & 9 Vict. c. 100, s. 24, *ante*; and 25 & 26 Vict. c. 111, s. 16, *post*.

(*d*) See s. 6, *post*; and also 25 & 26 Vict. c. 111, s. 18, *post*.

(*e*) As to the order of the committee appointed by the Lord Chancellor, in the case of a person found lunatic by inquisition, see 25 & 26 Vict. c. 111, s. 22, *post*.

(*f*) As to the liabilities of the person signing the order, see *Fletcher* v. *Fletcher*, 1 E. & E. 420; 28 L. J. R. (N.S.) Q. B. 134. Such person is not protected by 8 & 9 Vict. c. 100, s. 99 (see note (*f*) on that section,

form (*g*) in schedule (A) No. 1 annexed to this Act, together with such statement of particulars as is contained in the same

ante), and consequently remains subject to his liabilities at common law. *Nottidge* v. *Ripley and Nottidge* (*Times*, June 25, 26, 27, 1849), was an action of damages for the incarceration of the plaintiff (a maiden lady), in a licenced house for lunatics, under the pretense that she was of unsound mind, when in truth she was perfectly sane. The defendants pleaded "Not Guilty," and also, that the plaintiff was of unsound mind, and that it was unsafe for herself and for others that she should be at large. It appears from the evidence, which is fully detailed in the *Times* report, that Miss Nottidge having, with two married sisters, joined a religious society, the members of which lived together in an establishment called the "Agapemone," or "Abode of Love," was forcibly taken away by the defendants (her brother-in-law and brother), was brought to London, and, two medical certificates having been obtained, was placed in a licenced house at Hillingdon, where she was detained for seventeen months, and then liberated by the direction of the Commissioners in Lunacy. The Lord Chief Baron directed the jury to find a verdict for the plaintiff on the plea of "Not guilty," as the evidence proved that the defendants had been guilty of some of the acts charged; and as to the plea of justification, viz., that the plaintiff was a lunatic, and not capable of taking care of herself, and was in such a state of mind as to be likely to injure herself and other persons, and that it was in consequence of her being in that state that the defendants had put her in a place of safety, he said that, if the jury considered, upon the evidence, that the plaintiff was not in such a state as to be dangerous to herself or others, then the plea to that effect not having been made out, the verdict ought to be for the plaintiff on that issue also. Verdict for the plaintiff—damages £50; the jury being of opinion that the defendants were not actuated by any unworthy motive. With regard to the liberation of this lady, and generally of persons not dangerous to themselves or others, a conversation occurred between the Lord Chief Baron and Mr. Mylne, one of the Commissioners in Lunacy (who was examined as a witness), which induced the Commissioners in Lunacy to address a letter to the Lord Chancellor on 4th July, 1849. This letter (which was printed by order of the House of Commons, on 1st August, 1849; Sess. Papers, No. 620), entered very fully into the important question as to the class of lunatics who may be lawfully placed, and kept, in confinement. The Lord Chief Baron, having been understood to intimate an opinion that no person ought to be so confined, unless he is dangerous to himself or others, the Commissioners pointed out that the scope of the Lunacy Acts is not thus limited. They said—"The object of these Acts is not, as your Lordship is aware, so much to confine lunatics, as to restore to a healthy state of mind such of them as are curable, and to afford comfort and protection to the rest." "Moreover, the difficulty of ascertaining whether one who is insane be

(*g*) As to the subsequent enactments affecting the order, see notes to the schedule, *post*. See also Introduction, *ante*, pp. 67, 68.

schedule, nor without the medical certificates, (*h*) according to the form in schedule (A) No. 2 annexed to this Act, of two persons, each of whom shall be a physician, surgeon, or apothecary, (*i*) and shall not be in partnership with or an assistant to the other, (*j*) and each of whom shall separately from the other have personally examined (*k*) the person to whom the certificate signed by him relates not more than seven clear days previously to the reception of such person into such house or hospital; and such order as aforesaid

dangerous or not, is exceedingly great, and in some cases can only be determined after minute observation for a considerable time." "It is of vital importance that no mistake or misconception should exist, and that every medical man who may be applied to for advice on the subject of lunacy, and every relative and friend of any lunatic, as well as every magistrate and parish officer (each of whom may be called upon to act in cases of this sort), should know and be well assured that, according to law, any person of unsound mind, whether he be pronounced dangerous or not, may legally and properly be placed in a county asylum, lunatic hospital, or licenced house, on the authority of the preliminary order and certificates prescribed by the Acts." With respect to resorting to a commission of lunacy, the Commissioners added—"It is obvious that the finding of a jury is in no case essential, in order legally to justify the confinement of a person of unsound mind." (See also the Fourth Annual Report of the Commissioners, 30th June, 1849, p. 10; and Fifth Report, 30th June, 1850, p. 14). As regards the liberation of a lunatic upon a writ of *habeas corpus*, it seems that the Court, if it considers that his release would be dangerous to himself or to others, will not order his discharge, even where the orders and certificates are irregular or invalid. See *re* Shuttleworth, 9 Q. B. 651; *Reg.* v. *Pinder*, in *re* Greenwood, 24 L. J. R. (N.S.) Q. B. 148; *Fletcher* v. *Fletcher*, 1 E. & E. 420; *Norris* v. *Seend*, 3 Ex. 782. See also *ex parte* Child, 15 C. B. 238, where the writ was refused, because the application was not authorised by the alleged lunatic himself.

Upon the whole, it appears that the power to restrain and confine a lunatic is limited, at common law, to cases in which it would be dangerous, either as regards others or himself, for the lunatic to be at large; but the power to place and detain a lunatic in a registered hospital or licenced or other house, under an order and medical certificates duly made and obtained in accordance with the provisions of the Lunacy Acts, is not so limited. It is important, however, that those provisions should be strictly observed.

(*h*) As to one certificate in certain cases, see s. 5, *post*. As to detention under certificates given by two medical men in Dublin, see *ex parte* Child, 15 C. B. 238.

(*i*) s. 36, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*.

(*j*) See also s. 12, *post*; and 8 & 9 Vict. c. 100, s. 23, *ante*; and 25 & 26 Vict. c. 111, s. 24, *post*.

(*k*) *R.* v. *Jones*, 2 B. & Ad. 611. And see also s. 10, *post*.

may be signed before or after the medical certificates or either of them; (*l*) and every person who shall receive any such person as aforesaid into any such house or hospital as aforesaid (save where otherwise provided or authorised under this or any other Act) without such order and medical certificates as aforesaid shall be guilty of a misdemeanour. (*m*)

Proviso that in certain Cases any Person may be received on a Certificate signed by one Medical Practitioner only.

V. Provided always, that any person (not a pauper) may, under special circumstances preventing the examination of such person by two medical practitioners as aforesaid, (*n*) be received as a lunatic into any licenced house or any hospital upon such order as aforesaid, (*n*) and with the certificate of one physician, surgeon, or apothecary, (*o*) alone, provided that the statement accompanying such order set forth the special circumstances which prevent the examination of such person by two medical practitioners; but in every such case two other such certificates shall, within three clear days after his reception into such house or hospital, be signed by two other persons, each of whom shall be a physician, surgeon, or apothecary, (*o*) not in partnership with or an assistant to the other or the physician, surgeon, or apothecary (*o*) who signed the certificate on which the patient was received, and not connected with such house or hospital, (*p*) and shall within such time and separately from the other of them have personally examined (*q*) the person so received as a lunatic; and every person who, having received any person as a lunatic into any house or hospital as aforesaid upon the certificate of one medical practitioner alone as aforesaid, shall keep or permit such person to remain in such house or hospital beyond the said period of three clear days without such further certificates as aforesaid, shall be guilty of a misdemeanor. (*r*)

(*l*) See Sixth Report of the Commissioners, 1851, p. 15.
(*m*) 8 & 9 Vict. c. 100, s. 106, *ante;* 16 & 17 Vict. c. 96, s. 37, *post.*
(*n*) s. 4, *ante.*
(*o*) s. 36, *post;* and 25 & 26 Vict. c. 111, s. 47, *post.*
(*p*) See also note (*j*) to s. 4, *ante.*
(*q*) See note (*k*) to s. 4, *ante.*
(*r*) 8 & 9 Vict. c. 100, s. 106, *ante;* 16 & 17 Vict. c. 96, s. 37, *post.*

Any Person discharged may, with assent of Visitors (s) or Commissioners, be retained in licenced House, and a Relative or Friend may, with like assent, be received therein.

VI. Provided also, that it shall be lawful for the proprietor or superintendent of any licenced house, (*t*) with the previous assent in writing of two of the Commissioners [*such assent not to be given until after such Commissioners have, by personal examination of the patient, satisfied themselves of his desire to remain* (*u*)], to entertain and keep in such house as a boarder any person who may have been discharged as a patient from such house for such time after such discharge as he may desire to remain, not exceeding the time specified in such assent, and also, for the benefit of any patient in such house, and with the previous assent in writing of two of the Commissioners, to receive and accommodate as a boarder therein, for a time to be specified in the assent, any relative or friend of such patient, and any two of the Commissioners may from time to time, by any writing under their hands, extend or revoke any such assent as aforesaid; and every such patient so retained after discharge, and every such relative or friend so accommodated, shall, if required, be produced to the Commissioners and Visitors respectively at their respective visits.

Paupers not to be received without a certain Order and Certificate.

VII. Save where otherwise provided or authorised under any Act, no pauper shall be received into any licenced house or any hospital without an order according to the form in schedule (B) No. 1 annexed to this Act, (*v*) under the hand of one justice, or under the hands of an officiating clergyman, and the relieving officer or one of the overseers of the union or parish from which such pauper shall be sent, together with such statement of particulars as is contained in the same schedule, nor without the medical certificate, according to the form in schedule (B) No. 2 annexed to this Act, of a physician, surgeon, or apothecary, (*w*) who shall have per-

(*s*) The word "Visitors" is here inserted by mistake.
(*t*) See s. 4, *ante*; and also 25 & 26 Vict. c. 111, s. 18, *post*.
(*u*) Repealed by 18 & 19 Vict. c. 105, s. 16, *post*.
(*v*) See also 25 & 26 Vict. c. 111, ss. 25, 26, 31, 32, 33. *post*.
(*w*) s. 36, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*. See also s. 12 of the present Act, *post*.

sonally examined (*x*) the pauper to whom it relates not more than seven clear days previously to his reception; and every person who shall receive any pauper into such house or hospital as aforesaid (save where otherwise provided or authorised under any Act) without such order and medical certificate as last aforesaid shall be guilty of a misdemeanor; (*y*) provided always, that this enactment shall not by implication or otherwise give any power or authority to make such order, or extend, alter, or affect any power or authority expressly given by any Act to any justice, officiating clergyman, relieving officer, or overseer to make or join in making any such order, or any provisions giving or relating to such power or authority. (*z*)

The like Order and Certificates for reception of a single Patient as for reception of a private Patient into a Licenced House.

VIII. Where, under section ninety of the said recited Act, (*a*) the like order and medical certificates are required on the reception or taking the charge or care of any one person as a lunatic or alleged lunatic as are thereinbefore required on the reception of a patient (not being a pauper) into a licenced house, the like order and medical certificates (in lieu of those required as first aforesaid) shall hereafter be required on the reception or taking the charge or care of any such person as are by this Act required on the reception of a patient (not being a pauper) into a licenced house. (*b*)

Penalty on Officers, etc., ill-treating Lunatics.

IX. If any superintendent, officer, nurse, attendant, (*c*) servant, or other person employed in any registered hos-

(*x*) *R.* v. *Jones*, 2 B. & Ad. 611. See also s. 10, *post*.

(*y*) 8 & 9 Vict. c. 100, s. 106, *ante;* 16 & 17 Vict. c. 96, s. 37, *post*.

(*z*) See "Statutes relating to Pauper Lunatics," *post*, and Introduction, chapter II., *post*.

(*a*) 8 & 9 Vict. c. 100, s. 90, *ante*.

(*b*) See s. 4 of this Act, *ante;* but as to the order of the committee appointed by the Lord Chancellor in the case of a person found lunatic by inquisition, see 25 & 26 Vict. c. 111, s. 22, *post*. As to the medical certificates, see also ss. 10–13 of the present Act, *post*. As to the liabilities of the person signing the order, see *Fletcher* v. *Fletcher*, 1 E. & E. 420; 28 L. J. R. (N.S.) Q. B. 134; and see also note (*f*) on s. 4 of this Act, *ante*.

(*c*) s. 36, *post*. See also s. 26, *post*.

pital or licenced house, (*d*) or any person having the care or charge of any single patient, (*e*) or any attendant (*e*) of any single patient, (*e*) in any way abuse, or ill-treat, or wilfully neglect any patient in such hospital or house, or such single patient, (*e*) or if any person detaining, or taking or having the care or charge, or concerned or taking part in the custody, care, or treatment, of any lunatic or person alleged to be a lunatic, (*f*) in any way abuse, ill-treat, or wilfully neglect such lunatic or alleged lunatic, he shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds. (*g*)

Medical Certificate to specify Facts upon which Opinion of Insanity has been formed.

X. Every physician, surgeon, and apothecary (*h*) signing any certificate under or for the purposes of this Act shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is a lunatic, an idiot, or a person of unsound mind, and distinguish in such certificate facts observed by himself from facts communicated to him by others; and no person shall be received into any registered hospital or licenced house, or as a single patient, under any certificate which purports to be founded only upon facts communicated by others.

Orders and Medical Certificates may be amended.

XI. If after the reception of any lunatic it appear that the order or medical certificate, or (if more than one) both or either of the medical certificates, upon which he was received, is or are in any respect incorrect or defective, such order and medical certificate or certificates may be amended

(*d*) 8 & 9 Vict. c. 100, s. 56, *ante*. *Reg.* v. *Hill*, 5 Cox, C. C. 259.

(*e*) s. 36, *post*. See also s. 26, *post*.

(*f*) *Reg.* v. *Rundle*, 6 Cox, C. C. 549; 25 L. T. 118; 24 L. J. R. (N.S.) M. C. 129; Introduction, *ante*, p. 85; and *Reg.* v. *Porter*, 33 L. J. R. (N.S.) M. C. 126; 10 L. T. (N.S.) 306; Introduction, *ante*, p. 86.

(*g*) 8 & 9 Vict. c. 100, s. 106, *ante*; 16 & 17 Vict. c. 96, s. 37, *post*.

(*h*) s. 36, *post*; 25 & 26 Vict. c. 111, s. 47, *post*.

by the person signing the same at any time within fourteen days next after the reception of such lunatic; provided nevertheless, that no such amendment shall have any force or effect unless the same shall receive the sanction of one or more of the Commissioners. (*i*)

Who not to sign Certificates, etc.

XII. No physician, surgeon, or apothecary (*j*) who, or whose father, brother, son, partner, or assistant, is wholly or partly the proprietor of, or a regular professional attendant in, a licenced house or a hospital, shall sign any certificate for the reception of a patient into such house or hospital; and no physician, surgeon, or apothecary (*j*) shall himself, or by his servants or agents, receive to board or lodge in any unlicenced house, or take the charge or care of any person upon or under any medical certificate signed by himself or his father, brother, son, partner, or assistant, and no physician, surgeon, or apothecary (*j*) having (either before or after the passing of this Act) signed any certificate for the reception of any person shall be the regular professional attendant of such person while under care or charge under such certificate; and no physician, surgeon, or apothecary (*j*) who, or whose father, brother, son, partner, or assistant, shall sign the order hereinbefore required for the reception of a patient, shall sign any certificate for the reception of the same patient. (*k*)

A Medical Man giving false Certificates, etc., and a Person not being a Medical Man giving Certificates as such, guilty of a Misdemeanor.

XIII. Any physician, surgeon, or apothecary (*j*) who shall sign any certificate, or do any other Act (not declared to be a misdemeanor) contrary to any of the provisions herein contained, (*l*) shall for every such offence forfeit any sum not exceeding twenty pounds; (*n*) and any physician, surgeon, or

(*i*) See also 25 & 26 Vict. c. 111, s. 27, *post*.
(*j*) s. 36, *post*; 25 & 26 Vict. c. 111, s. 47, *post*.
(*k*) See also notes to schedule A, No. 2, *post*, and note (*j*) to s. 4, *ante*. As to penalties, see s. 13, *post*.
(*l*) *R.* v. *Jones*, 2 B. & Ad. 611.
(*n*) 8 & 9 Vict. c. 100, s. 106, *ante*; 16 & 17 Vict. c. 96, s. 37, *post*.

apothecary who shall falsely state or certify anything in any certificate under this Act, and any person who shall sign any certificate under this Act in which he shall be described as a physician, surgeon, or apothecary, not being a physician, surgeon, or apothecary respectively within the meaning of this Act, (*m*) shall be guilty of a misdemeanor. (*n*)

Commissioners may permit Medical Visitation of any single Patient less frequently than once a Fortnight, but if Patient be in the care of a Medical Man he is to make an Entry once a Fortnight as to Patient's Health.

XIV. It shall be lawful for the Commissioners, by an order under their common seal, where they see fit so to do, to permit the visitation of any single patient by a physician, surgeon, or apothecary (*m*) less frequently than once in every two weeks, as required by section ninety of the said recited Act, (*o*) and to prescribe from time to time how often any single patient shall be visited by such a physician, surgeon, or apothecary (*m*) as therein mentioned; but where such visitation of any single patient so often as once in every two weeks is so dispensed with, and such patient is in the care or charge of a physician, surgeon, or apothecary, (*m*) such physician, surgeon, or apothecary (*m*) shall once at the least in every two weeks make an entry in a book to be kept for that purpose, to be called "The Medical Journal," (*p*) of the condition of the patient's health, both mental and bodily, together with the date of such entry, and such book shall be produced to the Visiting Commissioner on every visit, (*q*) and shall be signed by him as having been so produced, and every such physician, surgeon, or apothecary, (*m*) who shall make an untrue entry in the said book shall be guilty of a misdemeanor. (*n*)

(*m*) s. 36, *post*, 25 & 26 Vict. c. 111, s. 47, *post*.
(*n*) 8 & 9 Vict. c. 100, s. 106, *ante*; 16 & 17 Vict. c. 96, s. 37, *post*.
(*o*) 8 & 9 Vict. c. 100, s. 90, *ante*.
(*p*) As to the form of this book, see Introduction, *ante*, p. 35.
(*q*) 8 & 9 Vict. c. 100, s. 92, *ante*.

Visitors of Licenced Houses may visit single Patients on request of Commissioners.

XV. It shall be lawful for one or more of the visitors appointed in or for any county or borough under the said recited Act, upon the request in writing of the Commissioners, or any two of them, under their hands, so to do, to visit any person detained in any unlicenced house in such county or borough as a single patient, (*s*) and to inquire into and report to the Commissioners on the treatment and state of health, bodily and mental, of such patient, and to inspect the order and certificates on which such person was received; and the provisions of the said recited Act (*r*) for and concerning the remuneration or payment of any such visitor, being a physician, surgeon, or apothecary, in respect of the execution of the duties of that Act, and for the payment of the costs, charges, and expenses incurred by any visitor in proceedings under that Act, shall extend and be applicable to and for the remuneration or payment of any visitor, being a physician, surgeon, or apothecary, visiting as aforesaid any single patient, and to and for the payment of the costs, charges, and expenses incurred by any visitor in or about such visit as aforesaid.

Annual Report to be made to the Commissioners by every Medical Man visiting or having charge of a single Patient.

XVI. Every physician, surgeon, and apothecary (*s*) who visits any single patient, (*s*) or under whose care or charge any single patient (*s*) shall be, shall on the tenth day of January, or within seven days from that time, in every year report in writing to the Commissioners the state of health, bodily and mental, of such patient, with such other circumstances as he may deem necessary to be communicated to the Commissioners; and it shall be lawful for the Commissioners, at any other time and from time to time as they see occasion, to call for and require from any such physician, surgeon, or apothecary (*s*) a report in writing relative to any single patient (*s*) visited by him or under his care or charge in such

(*r*) See 8 & 9 Vict. c. 100, s. 20, *ante;* and ss. 36-38, *ante.*
(*s*) s. 36, *post;* and also 25 & 26 Vict. c. 111, s. 47, *post.*

form and specifying such particulars as the Commissioners may direct.

Provisions concerning Discharge of Patients from licenced Houses by Relatives extended to single Patients.

XVII. The provisions contained in sections seventy-two and seventy-three of the said recited Act (*t*) for the discharge of patients (not being paupers) from licenced houses shall extend and be applicable to and for the discharge of any single patient: (*u*) provided always, that this enactment shall not extend to authorise the discharge of any single patient (*u*) if the physician, surgeon, or apothecary (*u*) who has the care or charge of or visits such patient certify in writing under his hand that in his opinion such patient is dangerous, and unfit to be at large, together with the grounds on which such opinion is founded, unless one of the Commissioners shall consent in writing to the discharge of such patient.

Lord Chancellor upon Report of Commissioners, may order Discharge, &c., of any single Patient.

XVIII. It shall be lawful for the Lord Chancellor, upon the report of the Commissioners in Lunacy, to order the discharge of any person received or detained as a single patient, (*u*) or to give such orders and directions in reference to such patient as the Lord Chancellor shall think fit; (*v*) and any person detaining any such patient for the space of three days after a copy of such order for his discharge shall have been served on him, or left at the house in which such person so ordered to be discharged is detained, shall be guilty of a misdemeanor.

On recovery of a Patient, Notice to be given to Friends, and in the case of a Pauper to Guardians, etc.; and in default of Discharge or Removal, to Commissioners and Visitors—Provision in case of death of Patient in any Hospital or licenced House.

XIX. The superintendent or proprietor of every registered hospital and licenced house, and every person having the care or charge of any single patient, (*u*) shall forthwith, upon the recovery of any patient in such hospital or house, or of

(*t*) 8 & 9 Vict. c. 100, ss. 72, 73, *ante*.
(*u*) s. 36, *post*, and also 25 & 26 Vict. c. 111, s. 47, *post*.
(*v*) See also 8 & 9 Vict. c. 100, ss. 92, 93, *ante*.

such single patient, (*w*) transmit notice of such recovery in the case of a patient not a pauper to the person who signed the order for his reception, or by whom the last payment on account of such payment was made, and in the case of a pauper to the guardians of his union or parish, or if there be no such guardians to one of the overseers of the poor of his parish, or if such pauper be chargeable to any county, to the clerk of the peace thereof, and in case such patient be not discharged or removed within fourteen days from the giving of such notice, such superintendent, proprietor, or person as aforesaid, shall immediately after the expiration of such period, transmit notice of the recovery of such patient to the Commissioners, and also, in the case of a licenced house within the jurisdiction of any visitors, to the clerk of such visitors, with the date of the notice firstly in this enactment mentioned, and where notice is so given to the clerk of any visitors he shall forthwith communicate the same to the visitors, or two of them, one of whom shall be a physician, surgeon, or apothecary; (*w*) and in the case of the death of any patient in any hospital or licenced house, a statement setting forth the time and cause of the death, and the duration of the disease of which such patient died, shall be prepared and signed by the medical person or persons who attended the patient during the illness which terminated in death, and such statements shall be entered in the "Case Book," (*x*) and a copy of such statement, certified by the superintendent or proprietor, shall, within two days of the date of the death, be transmitted to the coroner for the county or borough, and in case such coroner, after receiving such statement, shall think that any reasonable suspicion attends the cause and circumstances of the death of such patient, he shall summon a jury to inquire into the cause of such death.

Provision authorising Transfer of private and single Patients.

XX. Any person, having authority to order the discharge of any patient (not being a pauper) from any asylum, registered hospital, or licenced house, or of any single patient, (*w*) may, with the previous consent in writing of two of the Commissioners, direct, by an order in writing under

(*w*) s. 36, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*.
(*x*) 8 & 9 Vict. c. 100, s. 60, *ante*; and Introduction, *ante*, pp. 65, 78.

his hand, the removal of such patient to any asylum, registered hospital, or licenced house, or to the care or charge of any person mentioned or named in such order; and every such order and consent shall be made and given respectively in duplicate, and one of the duplicates shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house from which, or the person from whose care or charge the patient is ordered to be removed, and the other duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house into which or the person into whose care or charge the patient is ordered to be removed; and such order for removal, together with such consent in writing, shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, registered hospital, or licenced house into which or by the person into whose care or charge he is ordered to be removed: provided always that a copy of the order and certificates upon which such patient was received into the asylum, hospital, or house from which he is removed, or as a single patient, by the person from whose care he is removed, certified under the hand of the superintendent or proprietor of such asylum, hospital, or house, or of such person as last aforesaid, to be a true copy, shall be furnished by him free of expense, and shall be delivered, with one duplicate of the said order of removal and consent, to the superintendent or proprietor of the asylum, hospital, or house to which or to the person to whose care or charge such patient is removed. (*y*)

Notice of Discharge of single Patients to be sent to the Commissioners.

XXI. Every person from whose care or charge any single patient (*a*) shall be discharged shall transmit to the Commissioners a written notice of such discharge within the like period, and under the like penalty for default, as by the said recited Act (*z*) is required and provided in the case of the discharge of a patient from a licenced house. (*a*)

(*y*) See 16 & 17 Vict. c. 97, s. 86, *post*; which is an exact repetition of the above enactment. The object of this double provision is not apparent.

(*z*) See 8 & 9 Vict. c. 100, s. 54, *ante*.

(*a*) This supplies a defect in 8 & 9 Vict. c. 100, s. 90, *ante*. As to the term "single patient," see s. 36, *post*.

Provisions as to change of Residence of Persons having charge of single Patients, and temporary Removal of such Patients for benefit of Health.

XXII. It shall be lawful for any person having the care or charge of a single patient (*b*) to change his residence, and remove such patient to any new residence of such person, (*b*) in England, provided that seven clear days before such change of residence he give notice in writing thereof, and of the place of such new residence, to the Commissioners and to the person (*c*) who signed the order for the reception of such patient, or by whom the last payment on account of such patient was made; and it shall be lawful for any person having the care or charge of any single patient, (*b*) having first obtained the consent of two of the Commissioners, to take or send such patient under proper control, to any specified place or places, for any definite time, for the benefit of his health; provided always, that before any such consent shall be given, the approval in writing of the person who signed the order for the reception of such patient, or by whom the last payment on account of such patient was made, shall be produced to such Commissioners, unless they shall, on cause being shown, dispense with the same.

On Representation of Commissioners, Lord Chancellor may require Statement of Property of Lunatic.

XXIII. Where any person has already been received as a lunatic under order and certificates, and shall be detained thereunder, and where any person shall hereafter be in like manner received and detained, and the Commissioners represent to the Lord Chancellor that it is desirable that the extent and nature of his income should be ascertained, and the application thereof, the Lord Chancellor may, if he think fit, through the Registrar in Lunacy, (*d*) require that the person signing the order, or other the person paying for the care and maintenance of the lunatic, or having the management of the property, shall transmit to the Lord Chancellor

(*b*) See s. 36, *post;* also 8 & 9 Vict. c. 100, s. 90, *ante.*
(*c*) Printed "persons" in some impressions of the Act printed by the Queen's printer.
(*d*) 16 & 17 Vict. c. 70, s. 10, *ante.*

a statement in writing, to the best of his knowledge, of the particulars of the property and income of the lunatic and of the application of the income.

Form of Notice of Admission.

XXIV. The notice of admission and statement mentioned or referred to in section fifty-two of the said recited Act (*e*) shall hereafter be according to the form mentioned in schedule (C) annexed to this Act, in lieu of the form set forth in schedule (F) to the said recited Act; and such statement shall be signed by the medical superintendent, proprietor, or attendant of the hospital or licenced house from which the same is sent, and the said notice and statement shall be accompanied by a copy of the several documents mentioned in the said notice. (*f*)

Form of Medical Visitation Book.

XXV. The medical visitation book mentioned in section fifty-nine of the said recited Act (*g*) shall henceforth be kept in the form set forth in schedule (D) annexed to this Act, in lieu of the form set forth in schedule (H) to the said recited Act; and the said section shall be construed as if the particulars mentioned in the several heads of the said form in the said schedule (D) had by the said section been required to be entered in the said book in lieu of the particulars mentioned in the said section.

Notice of Dismissal for Misconduct of Attendants to be sent to Commissioners.

XXVI. The superintendent or proprietor of every registered hospital or licenced house shall, within one week after the dismissal for misconduct of any nurse or attendant employed in such hospital or house, transmit to the Commissioners, by the post, information in writing under his hand of such dismissal, and the cause thereof; (*h*) and every superintendent or proprietor neglecting to transmit such

(*e*) 8 & 9 Vict. c., 100, s. 52, *ante.*
(*f*) 25 & 26 Vict. c. 111, s. 28, *post.*
(*g*) 8 & 9 Vict. c. 100, s. 59, *ante.* *Reg.* v. *Maddock and Perfect*; Introduction, *ante*, p. 74.
(*h*) See Introduction, *ante*, p. 75.

information to the Commissioners within the period aforesaid shall for every such offence forfeit any sum not exceeding ten pounds. (*i*)

Powers vested in private Committee to be vested in the Commissioners.

XXVII. Section eighty-nine of the said recited Act, constituting from among the Commissioners a private committee for the purposes in the said Act mentioned, shall be repealed, (*j*) and all the powers vested in, and all the provisions of the said Act applicable to, the said private committee, or one or two members thereof, shall be vested in and be applicable to the Commissioners, or one Commissioner, or two Commissioners (as the case may require), as if, where in the said Act the said private committee, or one member or two members thereof (as the case may be), is or are mentioned or referred to, the Commissioners, or one Commissioner, or two Commissioners (as the case may require), had been mentioned or referred to, instead thereof.

Repeal of Section 111 *of recited Act, and Provision as to Visitation of Workhouses.*

XXVIII. Section one hundred and eleven of the said recited Act shall be repealed, and any one or more of the Commissioners shall and may on such day or days, and at such hours in the day, (*k*) and for such length of time as he or they shall think fit, visit all such parish and union workhouses in which there shall be or be alleged to be any lunatic, as the Commissioners shall by any resolution or resolutions of the Board direct, and shall inquire whether the provisions of the law as to lunatics in such parish or union have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics in such workhouses, and shall report in writing thereon to the Poor Law Board. (*l*)

(*i*) 8 & 9 Vict. c. 100, s. 106, *ante;* 16 & 17 Vict. c. 96, s. 37, *post.*

(*j*) 8 & 9 Vict. c. 100, s. 89, *ante;* and see Introduction, *ante*, p. 36.

(*k*) The provisions of 8 & 9 Vict. c. 100, s. 71, *ante*, as to visits by night, are confined to hospitals and licenced houses.

(*l*) Now the Local Government Board. See Introduction, chapter II., *post.*

Commissioners may in any special Case employ Persons to make Inquiries, and to report to Them thereon.

XXIX. It shall be lawful for the Commissioners, where, for any reasons to be entered upon the minutes of the Board, (*ll*) any case appears to them specially to call for immediate investigation, to authorise and direct, by an order under their common seal, any competent person or persons to visit and examine and report to them upon the mental and bodily state and condition of any lunatic or alleged lunatic in any asylum, hospital, or licenced house, or of any pauper lunatic in a workhouse or elsewhere, or of any lunatic or alleged lunatic under the care or charge of any person as a single patient, and to inquire into and report upon any matters into which the Commissioners are authorised to inquire; and every such person shall, for the special purposes mentioned in such order, have all the powers of a Commissioner; and the Commissioners may allow to every such person a reasonable sum for his services and expenses, such sum to be paid in manner provided by the said recited Act with regard to expenses incurred by or under the authority of the Commissioners in proceedings thereunder;(*m*) but this enactment shall not be taken to exonerate the Commissioners from the performance of any duty by law imposed on them.

Regulations for Hospitals to be submitted to Secretary of State.

XXX. The committee having the management or government of every registered hospital shall, within three months after the passing of this Act in the case of every hospital now registered, and within three months after the registration of every hospital hereafter to be registered under the said recited Act, submit the existing regulations, or regulations to be framed by such committee, to one of Her Majesty's principal Secretaries of State, for his approval, and any such committee may, with the like approbation, alter and vary such regulations as they think necessary; and all such regulations so approved shall be printed, abided by, and observed, and a copy thereof shall be sent to the Commissioners, and another copy thereof kept hung up in the visitors' room of the hospital. (*n*)

(*ll*) s. 36, *post*.
(*m*) See 8 & 9 Vict. c. 100, ss. 33-35, *ante*.
(*n*) 8 & 9 Vict. c. 100, s. 43, *ante*.

Commissioners may make Regulations for the Government of Licenced Houses.

XXXI. It shall be lawful for the Commissioners, with the sanction and approbation of one of Her Majesty's principal Secretaries of State, from time to time to make regulations for the government of any house licenced for the reception of lunatics; and such regulations of the Commissioners, or a copy thereof, shall be transmitted by their secretary to the proprietor or resident superintendent of every licenced house to which the same relate, and shall be abided by and observed therein.

Time at which Reports of Commissioners to the Lord Chancellor as to State of Asylums, etc., are to be made.

XXXII. The report required by section eighty-eight of the said recited Act (*o*) to be made by the Commissioners to the Lord Chancellor in the month of June in every year of the state and condition of the several houses, hospitals, asylums, and other places visited by them under that Act, and of the care of the patients therein, and of such other particulars as they think deserving of notice, shall be made in or before the month of March in every year, and shall be made up to the end of the preceding year.

Provision for Payment of Persons employed to inspect Places where Lunatics are confined extended to Persons visiting under s. 112 *of* 8 & 9 *Vict. c.* 100.

XXXIII. The provision in section one hundred and thirteen of the said recited Act, for and concerning the payment for attendance and trouble of any person (not being a Commissioner) employed under that enactment, and of the travelling or other expenses of any person so employed, and as to the fund out of which such payment is to be made, shall extend and be applicable to and in the case of any person (not being a Commissioner) required to visit and examine any lunatic or supposed lunatic under section one hundred and twelve of the said recited Act. (*p*)

(*o*) 8 & 9 Vict. c. 100, s. 88, *ante*.
(*p*) 8 & 9 Vict. c. 100, ss. 112, 113, *ante*.

Penalty on Persons obstructing Execution of Orders of Lord Chancellor or Secretary of State, made under ss. 112 or 113 of recited Act, or of Commissioners made under this Act.

XXXIV. Any person who wilfully obstructs the Commissioners or any of them, or any other person authorised by an order in writing under the hand of the Lord Chancellor or Her Majesty's principal Secretary of State for the Home Department, pursuant to the provisions of section one hundred and twelve or one hundred and thirteen of the said recited Act, to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any asylum, hospital, gaol, house, or place wherein any lunatic or person represented to be lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be liable) forfeit for every such offence any sum not exceeding twenty pounds. (*q*)

Sect. 116 of recited Act repealed, and Bethlehem Hospital to be subject to this Act.

XXXV. Section one hundred and sixteen of the said recited Act shall be repealed (*r*) and the Royal Hospital of Bethlehem shall henceforth be subject to the provisions of the said recited Act and of this Act, in the same manner as if the same had not been exempted from the said recited Act, and shall be forthwith registered as an hospital accordingly, in pursuance of section forty-three of the said recited Act. (*s*)

Interpretation of Terms.

XXXVI. In the construction of the said recited Act and of this Act the words "physician," "surgeon," and "apothecary," shall respectively mean (*t*) physician, surgeon, and apothecary duly authorised or licenced to practise as such

(*q*) 8 & 9 Vict. c. 100, ss. 112, 113, *ante;* and s. 106, *ante;* and 16 & 17 Vict. c. 96. s. 37, *post.*
(*r*) 8 & 9 Vict. c. 100, s. 116, *ante.*
(*s*) 8 & 9 Vict. c. 100, s. 43, *ante.*
(*t*) See 8 & 9 Vict. c. 100, s. 114, *ante;* 17 & 18 Vict. c. 114, s. 2, *post;* and 25 & 26 Vict. c. 111, s. 47, *post.*

by or as a member of some college, university, company, or institution legally constituted, and qualified to grant such authority or licence, in some part of the United Kingdom, or having been in practice as an apothecary in England and Wales on or before the first day of August one thousand eight hundred and fifteen, and being in actual practice as such physician, surgeon, or apothecary; the expression "officiating clergyman of the parish" shall include the chaplain of the workhouse of the same parish, or of the workhouse of the union to which such parish belongs; (*u*) the expression "single patient" shall mean any person received or taken charge of as a lunatic under section ninety of the said recited Act, (*v*) or under such section as amended by this Act; and the expression "attendant" shall mean any person, whether male or female, who shall be employed either wholly or partially in the personal care, control, or management of any lunatic in any registered hospital or licenced house, or of any single patient; and in the construction of this Act the word "Board," as used in relation to the Commissioners in Lunacy, shall mean any three or more of the Commissioners assembled at a meeting convened in pursuance of section sixteen of the said recited Act, or holden under any order or rule for the time being in force made under section seventy of the said recited Act for regulating the duties of the Commissioners. (*w*)

Recited Act and this Act to be construed as one Act, etc.

XXXVII. The said recited Act and this Act shall be construed together as one Act, (*x*) and a Queen's printer's copy of this Act shall be bound up in the "Visitor's Book" of every hospital and licenced house together with the said recited Act. (*y*)

Act not to affect Provisions relating to Criminal Lunatics, 39 & 40 *Geo. III., c.* 94, 1 & 2 *Vict. c.* 14, *and* 3 & 4 *Vict. c.* 54, *save as herein provided.*

XXXVIII. Nothing in this Act shall affect the provisions

(*u*) 8 & 9 Vict. c. 100, s. 114, *ante.*
(*v*) 8 & 9 Vict. c. 100, s. 90, *ante.*
(*w*) 8 & 9 Vict. c. 100, s. 16, *ante;* and s. 70, *ante.*
(*x*) 8 & 9 Vict. c. 100, s. 114, *ante;* 18 & 19 Vict. c. 105, s. 19, *post;* and 25 & 26 Vict. c. 111, ss. 1, 2, 47, 48, *post.*
(*y*) 8 & 9 Vict. c. 100, s. 66, *ante.*

of any of the following Acts; (that is to say,) an Act of the session holden in the thirty-ninth and fortieth years of King George the Third, chapter ninety-four; an Act of the session holden in the first and second years of Her Majesty, chapter fourteen; and an Act of the session holden in the third and fourth years of Her Majesty, chapter fifty-four, or any other provisions concerning criminal lunatics, save as hereinafter provided; that is to say, it shall be lawful for one of Her Majesty's principal Secretaries of State to issue his warrant to remove or discharge any insane person who shall be in custody under the provisions of the said Act of the third and fourth years of Her Majesty, chapter fifty-four, provided it shall be duly certified to such Secretary of State, by two physicians or surgeons, that such insane person was harmless, and might be discharged from restraint as an insane person, without danger to himself or to others, in like manner as if it had been certified to such Secretary of State that such person had become of sound mind, anything in the said Act or any other Act to the contrary thereof in anywise notwithstanding. (*a*)

Secretary to the Commissioners, if at the Time of his Appointment a practising Barrister of five years' standing, eligible to be appointed a Commissioner.

XXXIX. And whereas by the said recited Act it is provided that every person to be appointed in the room of any Commissioner, being a barrister of five years' standing at the bar and upwards, shall be a practising barrister of not less than five years' standing at the bar: (*b*) and whereas it is expedient to amend the said provisions as hereinafter mentioned; the present or any future secretary to the Commissioners, if at the time of his appointment to be such secretary he was or shall have been a practising barrister of not less than five years' standing at the bar, shall be eligible to be appointed a Commissioner in the room of any such Commissioner as aforesaid.

Commencement of Act.

XL. This Act shall commence and come into operation on the first day of November one thousand eight hundred and fifty-three.

(*a*) See "Statutes relating to Criminal Lunatics," *post*.
(*b*) See 8 & 9 Vict. c. 100, s. 4, *ante*.

SCHEDULES to the foregoing Act.

SCHEDULE (A), No. 1, Sections 4, 8.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT. (*a*)

I, the undersigned, hereby request you to receive *A. B.*, a Lunatic, [*or* an Idiot, *or* a person of unsound mind,] as a Patient into your House [*or* Hospital]. Subjoined is a statement respecting the said *A. B.* (*b*)

(Signed) Name.
Occupation (if any).
Place of Abode.
(*b*) Degree of Relationship (if any), or other circumstance of connexion with the patient.

Dated (*c*) this day of one thousand eight hundred and

To
Proprietor [*or* Superintendent]
of [*describing the house or hospital by situation and name, if any*].

STATEMENT.

[*If any Particulars in this Statement be not known, the fact to be so stated.*] (*d*)

Name of Patient, with Christian Name at length.
Sex and Age.
Married, single, or widowed.
Condition of Life, and previous Occupation (if any).
The Religious Persuasion, as far as known.
Previous Place of Abode.

(*a*) See Introduction, *ante*, pp. 67, 68. Though this document is termed an "order" it is simply a request. It differs in this respect from the order in the case of a pauper patient. Schedule B, No. 1, *post*.

(*b*) See the additions required by 25 & 26 Vict. c. 111, ss. 23 and 25, *post*; see also s. 26, *post*.

(*c*) See 25 & 26 Vict. c. 111, s. 23, *post*.

(*d*) In *re* Shuttleworth (9 Q. B. 651), which occurred under 8 & 9 Vict. c. 100, it was held that a *bonâ fide* statement "that the lunatic is constantly watched by an attendant whom she fears," was a good excuse for the omission of many of these particulars.

Whether first attack.
Age (if known), on first attack.
When and where previously under Care and Treatment.
Duration of existing attack.
Supposed Cause.
Whether subject to Epilepsy.
Whether Suicidal.
Whether dangerous to others.
(*e*) Whether found lunatic by Inquisition, and date of Commission or Order for Inquisition.
(*f*) Special circumstances (if any) preventing the Patient being examined, before admission, separately by two Medical Practitioners.

(*g*) (Signed) Name.

[*Where the person signing the Statement is not the person who signs the Order, the following particulars concerning the person signing the Statement are to be added; viz.*—

Occupation (if any).
Place of Abode.
Degree of Relationship (if any) or other circumstances of connection with the Patient.]

SCHEDULE (A), No. 2, Sections 4, 5, 8, 10, 11, 12, 13.

FORM OF MEDICAL CERTIFICATE. (*h*)

I, the undersigned [*here set forth the qualification entitling the person certifying to practice as a Physician, Surgeon, or Apothecary, ex. gra.*, being a Fellow of the Royal College of Physicians in London], and being in actual practice as a [Physician, Surgeon, *or* Apothecary, *as the case may be*], hereby certify, that I, on the day of at [*here insert the street and number of the*

(*e*) See 25 & 26 Vict. c. 111, s. 22, *post*.
(*f*) See 16 & 17 Vict. c. 96, s. 5, *ante*.
(*g*) As to persons prohibited from signing, see 25 & 26 Vict. c. 111, s. 24, *post*; and as to signature by clergyman of the parish in which the private patient is resident, see *re* Shuttleworth, 9 Q. B. 651.
(*h*) See Introduction, *ante*, pp. 68–73. Also 25 & 26 Vict. c. 111, s. 27, *post*.

house (if any) (*i*) *or other like particulars*] in the County of , separately from any other Medical Practitioner, personally examined *A. B.*, of [*insert residence, and profession or occupation, if any*], and that the said *A. B.* is a [Lunatic, *or* an Idiot, *or* a Person of unsound Mind], and a proper Person to be taken charge of and detained under Care and Treatment, and that I have formed this Opinion upon the following grounds; viz.—(*j*)

1. Facts indicating Insanity observed by myself [*here state the facts*].
2. Other Facts (if any) indicating Insanity communicated to me by others [*here state the information, and from whom*].

(Signed) (*k*)

Place of abode.

Dated this day of one thousand eight hundred and

SCHEDULE (B), No. 1, Section 7. (*l*)

ORDER FOR THE RECEPTION OF A PAUPER PATIENT. (*m*)

I, *C. D.* [*or, in the case of a Clergyman and Relieving Officer, etc.*, we *C. D.* and *E. F.*], the undersigned, having called to my [*or* our] assistance a Physician [*or* Surgeon *or* Apothecary, *as the case may be*], and having personally

(*i*) The omission of the name of the street and number of the house will invalidate the certificate. See *Reg.* v. *Pinder*, in *re* Greenwood, 24 L. J. R. (N.S.) Q. B. 148.

(*j*) In *re* Fell (3 Dowl. & L. 373; 15 L. J. R. (N.S.) M. C. 25), which related to 8 & 9 Vict. c. 100, ss. 45, 46, now repealed, Patterson, J., thought that a statement in the medical certificate, that the alleged lunatic has "a general suspicion of the motives of every person," or that he "makes ungrounded statements in every conversation," would be insufficient. In *re* Shuttleworth (9 Q. B. 651), which also referred to 8 & 9 Vict. c. 100, ss. 45, 46, a statement in the certificate that the alleged lunatic "labours under delusions of various kinds, and is dirty and indecent in the extreme," was held to be sufficient.

(*k*) As to persons prohibited from signing, see also 8 & 9 Vict. c. 100, s. 23, *ante;* and 25 & 26 Vict. c. 111, s. 24, *post.*

(*l*) See also notes to Schedule F, No. 1, 16 & 17 Vict. c. 97, *post;* and 25 & 26 Vict. c. 111, s. 26, *post.*

(*m*) It will be observed that this order contains a direction, and not a mere request. See note (*a*) to schedule A, No. 1, *ante;* but see also Introduction, Chapter II., *post;* and 16 & 17 Vict. c. 97, s. 78, *post.*

examined *A. B.*, a Pauper, and being satisfied that the said *A. B.* is a Lunatic [*or* an Idiot, or a Person of unsound Mind,] and a proper Person to be taken charge of and detained under Care and Treatment, hereby direct you to receive the said *A. B.* as a Patient into your House [*or* Hospital]. Subjoined is a Statement respecting the said *A. B.*

(*n*) (Signed) *C. D.*
A Justice of the Peace for the County, City, or Borough of
[*or* an *or* the Officiating Clergyman of the Parish of

(*n*) (Signed) *E. F.*
The Relieving Officer of the Union or Parish of [*or* an Overseer of the Parish of].

Dated the day of one thousand eight hundred and

To Proprietor [*or* Superintendent] of [*describing the house or hospital.*]

STATEMENT.

[*If any Particulars in this Statement be not known, to be so stated.*] (*o*)

Name of Patient, and Christian Name at length.
Sex and Age.
Married, single, or widowed.
Condition of Life, and Previous Occupation (if any).
The Religious Persuasion, as far as known.
Previous Place of Abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under Care and Treatment.
Duration of existing attack.
Supposed Cause.
Whether subject to Epilepsy.
Whether Suicidal.
Whether dangerous to others.
Parish or Union to which the Lunatic is chargeable.

(*n*) As to Commissioners in Lunacy, see 25 & 26 Vict. c. 111, ss. 31-33, *post*.

(*o*) *Re* Shuttleworth, 9 Q. B. 651; *ante*, note (*d*), p. 286.

Name and Christian Name and Place of Abode of nearest known Relative of the Patient, and degree of Relationship (if known). (*p*)

I certify that, to the best of my knowledge, the above Particulars are correctly stated.

(Signed)

Relieving Officer [*or* Overseer].

SCHEDULE (B), No. 2, Sections 7, 10, 11, 12, 13.

FORM OF MEDICAL CERTIFICATE. (*q*)

I, the undersigned [*here set forth the qualification entitling the Person certifying to practice as a Physician, Surgeon, or Apothecary, ex. gra.*, being a Fellow of the Royal College of Physicians in London], and being in actual practice as a [Physician, Surgeon, *or* Apothecary, *as the case may be*], hereby certify, that I, on the day of at [*here insert the street and number of the house* (*if any*), (*r*) *or other like particulars*], in the County of , personally examined *A. B.*, of [*insert residence and profession or occupation* (*if any*)], and that the said *A. B.* is a [Lunatic, *or* an Idiot, *or* a Person of Unsound Mind], and a proper Person to be taken charge of and detained under Care and Treatment, and that I have formed this Opinion upon the following grounds; viz.—(*s*)

1. Facts indicating Insanity observed by myself [*here state the facts*].

2. Other Facts (if any) indicating Insanity communicated to me by others [*here state the information, and from whom*].

(Signed) (*t*)

Place of Abode.

Dated this day of one thousand eight hundred and

(*p*) See 25 & 26 Vict. c. 111, s. 25, *post*.

(*q*) See also notes to schedule F, No. 3, 16, and 17 Vict. c. 97, *post*; and 25 and 26 Vict. c. 111, ss. 26, 27, *post*.

(*r*) *Reg.* v. *Pinder*, in *re* Greenwood, 24 L. J. R. (N.S.) Q. B. 148, *ante*, note (*i*), p. 288.

(*s*) *Re* Fell, 3 Dowl. & L. 373; *re* Shuttleworth, 9 Q. B. 651, *ante* note (*j*), p. 288.

(*t*) See also 8 & 9 Vict. c. 100, s. 23, *ante*.

SCHEDULE (C), Section 24.

Notice of Admission.

I hereby give you Notice, that *A. B.* was admitted into this House [*or* Hospital] as a Private [*or* Pauper] Patient, on the day of and I hereby transmit a Copy of the Order and Medical Certificates [*or* Certificate] on which he was received. [*If a Private Patient be received upon one Certificate only, the special circumstances which have prevented the Patient from being examined by two Medical Practitioners to be here stated, as in the Statement accompanying the Order for Admission.*] (*u*)

Subjoined (*v*) is a statement with respect to the mental and bodily condition of the above-named patient.

(Signed)
Superintendent [*or* Proprietor] of

Dated (*v*) the day of one thousand eight hundred and .

Statement.

I have this day [*some day not less than two clear days after the admission of the patient*] seen and examined the Patient mentioned in the above (*v*) Notice, and hereby certify that with respect to mental state he [*or* she] and that with respect to bodily health and condition he [*or* she]

(Signed)
Medical Proprietor [*or* Superintendent *or* Attendant] of

Dated (*w*) the day of one thousand eight hundred and .

(*u*) See 16 & 17 Vict. c. 96, s. 5, *ante;* and schedule A, No. 1, *ante.*

(*v*) See 8 & 9 Vict. c. 100, s. 52, *ante;* 16 & 17 Vict. c. 96, s. 54, *ante;* and 25 & 26 Vict. c. 111, s. 28, *post.* In the case of a private patient, the "notice" and accompanying documents are to be sent within one clear day, but the statement is to be sent after two and within seven clear days. Certain verbal alterations in the above forms are required to be made accordingly.

(*w*) See 8 & 9 Vict. c. 100, s. 52, *ante;* 16 & 17 Vict. c. 96, s. 54, *ante;* and 25 & 26 Vict. c. 111, s. 28, *post.*

SCHEDULE (D), Section 25.

FORM OF MEDICAL VISITATION BOOK.

Date.	Number and Class of Patients.				Patients who are, or since the Last Entry have been, under Restraint, or in Seclusion; when, and for what Period, and Reasons; and, in Cases of Restraint, by what Means.				Patients under Medical Treatment, and for what (if any) bodily Disorder.		Deaths, Injuries, and Violence to Patients since the last Entry.
	Private.		Pauper.		Restraint.		Seclusion.				
	M.	F.	M.	F.	Males.	Females.	Males.	Females.	Males.	Females.	

INTRODUCTION.

CHAPTER II.

Pauper Lunatics.

Division of the subject.]—Pauper lunatics may be, and frequently are, paupers in respect of destitution existing independently of the lunacy; but sometimes they become paupers in consequence of the lunacy. In either case, they must be relieved by the guardians, or other local authorities who are charged with the administration of relief to the poor; but the relief, on the other hand, must be afforded in the particular manner which is pointed out or prescribed by the law as adapted to the peculiar circumstances of their unfortunate condition. Wherever it is requisite or proper to do so for the purpose of cure or treatment, they ought to be sent to the county or borough asylum, or, in default of such accommodation, to some registered hospital or licenced house; but where it is not necessary to adopt that course, they may either be kept in the workhouse or be lodged with relatives or friends, or be boarded out or otherwise maintained, as may be deemed most suitable. It must be added, that the relief and treatment of pauper lunatics is necessarily a mixed subject, presenting a double aspect, which has led the Legislature to place it under the control of two distinct central authorities. In respect of their lunacy, pauper lunatics come under the jurisdiction of the

Commissioners in Lunacy; whilst in respect of their pauperism they come under the jurisdiction of the Local Government Board.

It is proposed to treat of the several branches of the subject *seriatim*.

Sect. 1.—Pauper Lunatics in County and Borough Asylums.

Legislation.]—Of the establishments available for pauper lunatics, the most important are the county and borough asylums; and it may be useful to present a brief summary of the legislation which has taken place with reference to these institutions.

Up to the year 1808, the only enactments affecting pauper lunatics were certain provisions in successive Vagrant Acts, which authorised the detention of dangerous maniacs, in chains, if necessary (rather with a view to the protection of the public than for their own benefit), and which provided for their removal to the parishes of their settlement, and the application of their property towards their maintenance. In the year 1808, however, the 48 Geo. III. c. 96 was passed, (*a*) and laid the foundation of that system of providing public lunatic asylums at the expense of the respective counties and boroughs in England and Wales, which has since been gradually, though not yet completely, carried into effect. The scheme of this Act, in its general features at least, has been in the main adhered

(*a*) "The first Act which notices pauper lunatics (17 Geo. ii. c. 5) enables any two justices to cause them to be apprehended, and to be locked up in some secure place, '*and there chained;*' and if the pauper's settlement should prove to be in another parish, then he was to be forwarded thither, and there '*locked up and chained,*' by the justices of that district. This Act is adverted to in the Report made by the Select Committee appointed to investigate the subject in 1807, as being the only Parliamentary Act affecting the lunatic poor." "The state of pauper lunatics was first investigated by a Parliamentary Committee in 1807. Other Select Committees investigated the condition of madhouses in 1815 and 1816; . . . and in 1827, another Select Parliamentary Committee inquired into the state of the madhouses in the County of Middlesex." "The Parliamentary inquiry of 1807 gave rise to the Act 48 Geo. iii. c. 96." See Further Report of the Commissioners in Lunacy, 1847, pp. 66, 67. With respect to the mode of treating lunatics before the commencement of the present century, see also Introduction, chapter 1, *ante*, p. 85.

to in the subsequent legislation on the subject; though material improvements have been introduced from time to time. The Act was amended, at different times, by the 51 Geo. III. c. 79; the 55 Geo. III. c. 46; the 59 Geo. III. c. 127; and the 5 Geo. IV. c. 71; and all these statutes were repealed in 1828 by the 9 Geo. IV. c. 40, which amended and consolidated the law upon the subject, and remained in force until 1845, when it was in its turn repealed by the 8 & 9 Vict. c. 126. This last-named statute (together with the statutes amending it, viz., 9 & 10 Vict. c. 84, and 10 & 11 Vict. c. 43) was itself repealed by the Act 16 & 17 Vict. c. 97, which was passed 20th August 1853, and which, combined with the Acts that have since been passed to amend it (viz., 18 & 19 Vict. c. 105; 19 & 20 Vict. c. 87; 25 & 26 Vict. c. 111; 26 & 27 Vict. c. 110; and 28 & 29 Vict. c. 80), contains the law now in force with respect to these asylums.

Asylums—how to be provided.]—The 48 Geo. III. c. 96, and the 9 Geo. IV. c. 40, left it entirely at the option of the justices to provide asylums or not, as they might think proper; but the 8 & 9 Vict. c. 126, introduced an important change upon this point, by rendering it incumbent upon the justices of every county and borough, not already provided with an asylum, to obtain one, either separately or jointly with other counties and boroughs, and by empowering the Secretary of State, after the lapse of three years, to require the justices to take the necessary steps for that purpose, in every case in which they might then have omitted to do so. Notwithstanding this enactment, however, it appeared from the Seventh Annual Report of the Commissioners in Lunacy (1853), that in 1852 there were still several counties unprovided with asylums, and that there were only four boroughs which separately possessed one.

Looking at this deficiency, and the importance of supplying it, the Legislature, by the Act of 1853 (16 & 17 Vict. c. 97), made it compulsory upon the justices

of every county not having an asylum to provide one forthwith, either by erecting or otherwise providing an asylum for the county alone, or by uniting for that purpose with any county or counties, borough or boroughs; and also (if deemed expedient) with the subscribers to any hospital for lunatics, established, or in course of erection, or afterwards to be established; but so that no agreement for this purpose should interfere with the reception of as many lunatics not paupers as might otherwise have been received into such hospital. The Act likewise imposed a similar obligation upon the justices (or council) of every borough not having an asylum, excepting any borough in which, at the passing of the 8 & 9 Vict c. 126, there were not six justices, besides a recorder (which boroughs, as well as cities, towns, or other districts not being boroughs within the meaning of the Act, were to be annexed for the purposes of the Act to the adjacent counties), though it allowed such boroughs as might prefer this alternative to contract for the reception of their lunatics into the asylums of other boroughs or counties; and it further provided that boroughs then contributing to county asylums should be considered as possessing asylums. The Secretary of State was empowered, after the lapse of one year from the passing of the Act, to annex to the adjoining counties any boroughs which should be reported to him by the Commissioners in Lunacy as having failed to carry out its provisions; or to require the justices of any counties or boroughs, similarly reported to him, to provide new asylums or enlarge or improve existing ones, as might be requisite.

Two or more asylums may be provided for any county or borough in which the existing asylum or asylums may be found to be inadequate or unfit (16 & 17 Vict. c. 97, s. 30); and a separate committee of visitors may be appointed for each such asylum (s. 23).

Purposes.]—The asylums are to be provided by each county or borough "for the pauper lunatics thereof"

(16 & 17 Vict. c. 97, s. 2); and the word "lunatic," as used in the Act, is defined by the Interpretation Clause to "mean and include every person of unsound mind, and every person being an idiot" (s. 132). The Act, therefore, contemplates that asylum accommodation should be provided for the pauper idiots as well as other pauper lunatics of every county or borough; and the provisions of s. 30 appear to admit of the classification of the different classes of insane paupers, whether lunatics or idiots, in different asylums in the same county, where the numbers may be such as to require or justify the erection of more than one asylum.

Mode of Proceeding.]—It is not necessary here to describe those provisions of the 16 & 17 Vict. c. 97, and subsequent statutes, which relate to the detailed proceedings of the justices in this matter, or to do more than state, in general terms, that the necessary powers are conferred upon them for appointing committees to act in their behalf, with a view to providing the asylums, and afterwards for appointing committees of visitors to manage the asylums thus provided. Such visitors may also enter into temporary contracts for sending pauper lunatics into the asylums of other counties or boroughs or into registered hospitals or licenced houses, as well as for receiving pauper and other lunatics of other counties or boroughs into their own asylums, when there is accommodation to spare. The proceedings of the committees are to be subject, in certain respects, to the supervision and control of the Commissioners in Lunacy and the Secretary of State. (*b*)

The provisions above referred to, which relate to the

(*b*) On the numerous points connected with the providing of asylums, their structure and arrangements and adaptation to their special purpose, the various exigencies of their internal economy, the cost of their erection, and other particulars,—much valuable information will be found in the series of Reports of the Commissioners in Lunacy (see all the Annual Reports, as well as the "Further Report" of 1847).

providing and upholding of the asylums and to the proceedings of the justices in counties, and of the justices, or in certain cases the council, in boroughs, as well as of the committees to be appointed by them, are mainly comprised in the following enactments:—

16 & 17 Vict. c. 97, ss. 2-45; 54; 125; 129, 130, 131, 132; schedules A and B.

18 & 19 Vict. c. 105, ss. 1, 2, 3, 4, 5, 6, 7; 10; 13; 19.

19 & 20 Vict. c. 87, s. 1.

25 & 26 Vict. c. 111, ss. 1, 2; 4, 5, 6, 7; 9, 10, 11; 48.

26 & 27 Vict. c. 110, s. 1.

28 & 29 Vict. c. 80.

Funds.]—The necessary expenditure is to be defrayed out of the county rates, to be raised for the purpose, in the case of counties; and in the case of boroughs, either out of the borough rates, to be raised for the purpose, or out of the borough funds, as the council of each borough may determine. Power is also given to borrow "all or any of the moneys required," on mortgage of the county rates, or of the borough rates or funds, but subject to the condition that the loans shall be paid off by annual instalments, not exceeding thirty (16 & 17 Vict. c. 96, ss. 46-52). Such loans may be obtained from the Public Works Loan Commissioners (s. 48).

Dissolution of Union.]—Where counties, boroughs, and hospitals, or any of them, have united for the purpose of providing an asylum, the union may be dissolved, with the consent of the Secretary of State, and upon certain terms and conditions (16 & 17 Vict. c. 97, s. 39); but in any such case, a committee must be elected, before the dissolution, to provide an asylum in each county and borough included in the union to be so dissolved (18 & 19 Vict. c. 105, s. 5).

Visitation.

Committee of Visitors.—Every asylum is placed

under the supervision and control of a Committee of Visitors, to be appointed annually in accordance with the provisions of the 16 & 17 Vict. c. 97. (See ss. 20, 21, 22, 23; 27, 28; and also, as to boroughs, ss. 7, 9, and 130, as well as 18 & 19 Vict. c. 105, s. 7).

Meetings, and Officers.]—The "Committee of Visitors" are to meet within one month after their election, and afterwards as often as may be necessary (16 & 17 Vict. c. 97, ss. 24, 25); three to be a *quorum* (s. 24). They are to elect a chairman, who shall have a casting vote (s. 24); and to appoint a paid clerk (s. 26), who may be also the clerk of the asylum (s. 26), and in whose name they may sue and be sued (s. 125).

Visits.]—Two members at least of the committee are required, once at least in every two months, to visit the asylum together; to inspect every part of it; to see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificates for the admission of every lunatic admitted since the last visitation; and the general books kept in the asylum (s. 61); and they are to enter in a book to be kept for the purpose their remarks on the condition and management of the asylum, and the lunatics therein (s. 61). The committee are to report annually to the justices of the county or borough; and a copy of such report is to be sent by their clerk to the Commissioners in Lunacy (s. 62).

Guardians and Overseers of the Poor.]—The Act further provides for the visitation of the pauper lunatics in the asylums by the guardians and overseers of the poor, and by any "physician, surgeon, or apothecary," appointed by them for that purpose. Such visits may be made (between the hours of 8 a.m. and 6 p.m.) whenever the guardians or overseers see fit; but the medical officer of the asylum may refuse to allow the examination of any lunatic, where he is of opinion that it would be injurious (s. 65). On this subject the Poor Law Board made the following re-

marks, in a circular letter, dated 15th December, 1862 (see Appendix, *post*):—Referring to 25 & 26 Vict. c. 111, s. 34, the Board observed, "Section 34 requires the superintendent of every asylum, once at least in each half-year, to transmit to the guardians of every union and parish a statement of the condition of every pauper lunatic chargeable to such union or parish. This return will enable the guardians to determine whether they should exercise the power given to them by the statute 16 & 17 Vict. c. 97, s. 65, of sending a physician or other medical practitioner, or a committee of themselves, to visit and examine any or all the pauper lunatics chargeable to the union in the asylum. In the event of a committee being sent, the Board recommend that only a limited number should be appointed for the purpose, so that there be no unnecessary expense incurred in the visit. Considerable discussion has arisen between the guardians and the auditors in several unions, where the latter have objected to the number of guardians sent on such visits and the amount of the expenses incurred in their visits. The Board think that, as a general rule, a committee of three, or at the most five guardians, would be sufficient for the purposes of the contemplated examination." On the 27th June, 1870, the Poor Law Board issued a general order, limiting the number of guardians to be deputed to make such visits (see "Glen's Poor Law Board Orders," seventh edition, 1871).

Commissioners in Lunacy.]—The Commissioners are empowered and required to visit all county and borough asylums. It may be noticed, however, that the provision on that point is not contained in any of the statutes referring directly to those asylums, but will be found in the Act of 1845, relating to licenced houses and registered hospitals, 8 & 9 Vict. c. 100. Two or more of the Commissioners, one to be a physician or surgeon, and one a barrister, are to visit every asylum once or oftener in every year, and to

make certain inquiries directed by the Act, and also such other inquiries as they may think meet (s. 110). It is further provided by the Act of 1862, 25 & 26 Vict. c. 111, s. 30, that any one or more of the Commissioners may at any time visit any asylum; and that every Commissioner so visiting alone shall have the same powers as two or more Commissioners under 8 & 9 Vict. c. 100, s. 110.

Lord Chancellor—Home Secretary.]—Power is given to the Lord Chancellor to direct, in the case of any person detained or taken charge of as a lunatic, or represented to be a lunatic, or to be under any restraint as a lunatic, that such lunatic or supposed lunatic shall be visited and examined; and also that the state of any asylum in which any lunatic or person represented to be a lunatic is confined or alleged to be confined, shall be inspected and inquired into and reported upon. Similar powers are likewise given to the Secretary of State for the Home Department (8 & 9 Vict. c. 100, ss. 112, 113; 16 & 17 Vict. c. 96, ss. 33, 34).

Management.

General Rules—Regulations.]—The Committee of Visitors are to make general rules for the government of the asylum, with the approval of the Secretary of State; and subject to such general rules, they may from time to time make orders and regulations for the management and conduct of the asylum, setting forth the number and description of officers and servants to be kept, their duties and salaries; the diet of the patients; the reservation of beds for certain cases; and the exclusion of persons afflicted with any contagious or infectious disease, or coming from a district where any such disease prevails (16 & 17 Vict. c. 97, s. 53). For suggestions made by the Commissioners with regard to these rules and regulations, see the "Further Report" of 1847, pp. 46–49, and Appendix F; and the Seventh Annual Report, p. 6, and Appendix C.

Officers.]—The Committee of Visitors are to appoint a chaplain, a resident medical officer, a clerk, a treasurer, and such other officers and servants as they may think fit (s. 55); and they may, if they think fit, appoint a visiting physician or surgeon (s. 55); and they are to appoint a resident superintendent, being either the medical officer, or one of the medical officers, of the asylum, or (with the sanction of the Secretary of State) some other person (s. 55). They have also power to remove any officer or servant (s. 55).

Chaplain.]—The chaplain must be in priest's orders, and licenced by the Bishop of the Diocese, who may revoke the licence whenever he thinks fit (s. 55). The chaplain, or his substitute approved by the visitors, must perform Divine service in the asylum on every Sunday, Christmas Day, and Good Friday, and otherwise as the visitors may direct (s. 55). If, however, any patient be of a religious persuasion differing from that of the Established Church, a minister of such persuasion may visit him at proper and reasonable times, at the special request of the patient or his friends, and with the consent and under the regulations of the medical officer of the asylum (s. 55). The chaplain is not required by the Act to reside on the premises; but a residence may properly be provided for him, if the visitors think fit (*Congreve* v. *Upton*, 9 L. T. (N.S.) 684).

Nurses and Attendants.]—Within one week after the dismissal for misconduct of any nurse or attendant, the clerk of the asylum is to transmit to the Commissioners in Lunacy, by the post, information of the dismissal and its cause, under a penalty of £10 for neglect (s. 56). See the remarks on a similar provision with reference to hospitals and licenced houses, Introduction, chapter i., *ante*, p. 75.

Salaries and Pensions.]—The salaries of the several officers and servants are to be fixed by the Committee of Visitors (ss. 53, 55); and provision is made for granting superannuation allowances under certain cir-

cumstances and conditions (16 & 17 Vict. c. 97, s. 57; 25 & 26 Vict. c. 111, ss. 12, 13). But no annuity by way of superannuation granted by the visitors is to be paid out of the rates of the county until confirmed by the quarter sessions (25 & 26 Vict. c. 111, s. 12, proviso).

Accounts.]—The clerk of the asylum is to keep the accounts of receipts and expenditure (s. 58); and the treasurer is also to keep an account of all moneys received and paid by him (s. 59); and the accounts of the treasurer, and of the clerk, are to be audited annually by the Committee of Visitors, who are to report thereon to the county quarter sessions, or the borough council (s. 60). The clerk is to send an abstract of the accounts to the Secretary of State, to the clerk or clerks of the peace, and to the Commissioners in Lunacy. This abstract is to be made in such form as the Commissioners may direct; and copies are to be laid by the Commissioners before both Houses of Parliament (s. 58).

Patients.]—The county and borough asylums are intended primarily and principally for pauper lunatics; and it is only when the accommodation in any such asylum is more than sufficient for the pauper lunatics of its own county or borough, or of all the counties and boroughs contributing to it, that the pauper lunatics of other counties or boroughs, as well as other lunatics, may be received (16 & 17 Vict. c. 97, s. 43).

Private Patients.]—These have been already noticed in a former chapter. (Introduction, chapter i., *ante*, pp. 78-80).

Pauper Patients.]—Before adverting to the mode of admission, it is necessary to refer to the preliminary question, as to what pauper lunatics are to be sent to the asylums. The Lunacy Acts do not contemplate or require that every pauper lunatic should necessarily be sent to an asylum (or registered hospital or licenced house); but only such pauper lunatics (including idiots and all persons of unsound mind) as

may be deemed to be proper persons to be taken charge of, and detained under care and treatment. This is shown by the language of the Acts, as well as by the terms of the order of admission, and of the accompanying medical certificates (16 & 17 Vict. c. 97, s. 67, sched. (F) No. 1 and No. 3). If any pauper lunatic is not a proper person to be taken charge of, and detained under care and treatment, he is not required to be sent to an asylum. This point must be determined in each case by the medical men who give the certificates, and by the justices or other persons who make the orders, as explained below; but with regard to pauper lunatics in a workhouse, it is expressly enacted that every such lunatic shall be deemed to be a proper person to be sent to an asylum, if the medical officer does not certify that he is a proper person to be kept in the workhouse, or if the accommodation in the workhouse is not sufficient for his reception (25 & 26 Vict. c. 111, s. 20).

Quarterly Lists.]—The 66th section of the Act of 1853 provides for the visitation of "every pauper lunatic *not* in an asylum or an hospital registered, or a house licenced for the reception of lunatics." Its object is to secure such a periodical examination of all pauper lunatics not in confinement, as may show whether they "are or are not properly taken care of and may or may not properly remain out of an asylum." For this purpose each such lunatic is to be personally visited once in every quarter of a year "by the medical officer of or for the parish or union, or district of a parish or union, in which such lunatic is resident," who is to make his report in the form prescribed; and with respect to the lunatics in any workhouse, to certify whether, in his opinion, the workhouse is or is not sufficient for the accommodation of the lunatics detained therein, and whether or not the lunatics so detained are proper persons to be kept in a workhouse (16 & 17 Vict. c. 97, s. 66; 25 & 26 Vict. c. 111, s. 21, and schedule B). A special remuneration is assigned to

the medical officer in respect of "each such quarterly visit to any pauper not being in a workhouse;" and the forms are to be supplied to him by the guardians. Copies of the lists are to be transmitted by the clerk to the guardians, or by the overseers, to the Commissioners in Lunacy, and to the visitors of the county or borough asylum. The circulars which have been issued upon this subject by the Commissioners in Lunacy and the Poor Law Board, together with an extract from the Thirteenth Report of the Commissioners in Lunacy, will be found in the Appendix (see *post*).

Annual Lists.]—In addition to the quarterly lists above referred to, the Act 16 & 17 Vict. c. 97, s. 64, requires annual lists to be made out "on the first day of January in every year, or as soon after as may be," of all the lunatics chargeable to every union and to every parish throughout the country. These lists are to be prepared by the clerks to the guardians, in unions and in parishes under boards of guardians; and by the overseers of every parish not in a union or under a board of guardians. The form of the return is given in schedule D; and it will be seen to apply to all the different classes of pauper lunatics, whether confined in asylums, registered hospitals, or licenced houses, or maintained in workhouses, in lodgings, or with relatives. On or before the 1st February, copies of the return are in each case to be sent to the following authorities:—1. The visitors of the asylum, or of each asylum (if more than one) of the county or borough in which the union or parish is situate. 2. The clerk of the peace of such county, or the clerk to the justices of such borough, to be laid before the justices of such county or borough respectively. 3. The Commissioners in Lunacy. (*c*) 4. The Poor Law

(*c*) See Thirteenth Report of the Commissioners in Lunacy, 31st March 1859, p. 74, and the Circulars of the Commissioners and the Poor Law Board, dated Dec., 1874, and Jan., 1875, Appendix, *post*.

Board, now the Local Government Board (see 34 & 35 Vict. c. 70).

Admission—Preliminary Proceedings.]—The object of the statutes is to secure the reception into an asylum of all those pauper lunatics who ought properly to be sent there; and the duties imposed on the several officers have reference to that object.

Medical Officer.]—On becoming aware that any pauper resident in his district is or is deemed to be a lunatic and a proper person to be sent to an asylum, the medical officer is to give written notice thereof, within three days, to the relieving officer; or, if there be no relieving officer, to the overseers (16 & 17 Vict. c. 97, s. 67); subject to a penalty not exceeding £10 for neglect (s. 70). As to the duty of the medical officer in regard to the cases of pauper lunatics in workhouses who ought to be sent to asylums, see 25 & 26 Vict. c. 111, s. 20, and *post*, p. 326.

Relieving Officer.]—On becoming aware, either by means of a notice from the medical officer or otherwise, that any pauper resident in any parish for which he acts, is or is deemed to be a lunatic (irrespective of the question whether he is or is not a proper person to be sent to an asylum), the relieving officer is required to give notice thereof, within three days, to some justice of the county or borough, who is thereupon to deal with the case (16 & 17 Vict. c. 97, s. 67; 25 & 26 Vict. c. 111, s. 19), unless the pauper cannot be conveniently taken before a justice,—in which case he may be examined by an officiating clergyman of the parish, in conjunction with the relieving officer, and an order for his admission into an asylum may be made by them (16 & 17 Vict. c. 97, s. 67). For every neglect under this section the relieving officer is subject to a penalty not exceeding £10 (s. 70).

Overseer of the Poor.]—In any parish or place where there is no relieving officer, the like duties are to be discharged by the overseers, subject to the same penalties for neglect (s. 67; see also s. 71).

Justice of the Peace.]—On receiving the notice from the relieving officer (or overseer), the justice is to order the pauper to be brought before him, or some other justice, within three days (unless he deems it better to go to the place where the pauper is, and examine him there); and the justice before whom he is so brought is to examine him, with the aid of a medical man. Any justice, however, may act upon his own knowledge, without any such notice. If the required medical certificate be given, and the justice (on examining the pauper when brought before him, or otherwise) be satisfied "that the pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment;" or if certificates be given, jointly or separately, by the medical man called in by the justice as well as by the medical officer of the parish or union; the justice is to make an order for the pauper's reception into an asylum (s. 67). As to pauper lunatics in workhouses who are to be deemed to be "proper persons to be sent to an asylum," see 25 & 26 Vict. c. 111, s. 20, and *post*, p. 326.

Officiating Clergyman.]—If the pauper cannot, on account of his health or other cause, be conveniently taken before a justice, he may be examined at his own abode or elsewhere by an officiating clergyman of the parish in which he is resident, together with the relieving officer (or overseer), and with the aid of a medical man. If the required medical certificate be given, and the officiating clergyman and relieving officer (or overseer) be satisfied as to the propriety of confining the pauper,—or if a certificate be given by the medical officer of the parish or union, in addition to that of the medical man called in,—then an order is to be made for admission into an asylum, as in the case of a pauper lunatic brought before a justice (s. 67). As to pauper lunatics in workhouses who are to be sent to asylums, see 25 & 26 Vict. c. 111, s. 20, and *post*, p. 326. By the interpretation clause the expression "officiating clergyman of the parish" includes

the chaplain of the workhouse of the parish or union (16 & 17 Vict. c. 97, s. 132).

Medical Certificate.]—The form of the certificate is prescribed by the Act 16 & 17 Vict. c. 97, s. 67, and schedule F, No. 3. If given alone by the medical man who is called in, it is not conclusive; but if given by the medical officer of the parish or union in addition to such medical man, the justice, or officiating clergyman and relieving officer (or overseer), will have no alternative, and must make an order accordingly for the admission of the pauper into an asylum (s. 67, last proviso). The order, however, will not authorise the admission of the pauper after a lapse of seven clear days from the date of the certificate (s. 73). As to the nature of the certificate, and the persons who are precluded from signing it, see ss. 75 and 76; and as to the penalties for signing false certificates, see s. 122. Where the certificate is given by a medical man called in by a justice, the latter may order the guardians (or overseers) to pay a reasonable remuneration for the examination (s. 69). If any certificate be found incorrect or defective, it may be amended within fourteen days after the pauper's admission, with the sanction of the Commissioners in Lunacy, who, if it be not amended, may discharge the pauper (16 & 17 Vict. c. 97, s. 87; 25 & 26 Vict. c. 111, s. 27). As to a case of discharge under these provisions, see Seventeenth Report of the Commissioners, 1863, p. 39.

Order.]—The form of the order for admission is prescribed by 16 & 17 Vict. c. 97, s. 67, and schedule F, No. 1. Whether signed by a justice, or by an officiating clergyman and relieving officer (or overseer) it is strictly an "order," and not (as in the case of a private patient, see schedule F, No. 2, and *ante*, p. 67) a mere request. It is addressed to the superintendent of the asylum, and "directs" him to receive the pauper as a patient into such asylum. It must be accompanied by a statement containing certain particulars, as far as they are known or can be ascertained.

If incorrect or defective, it may be amended within fourteen days, with the sanction of the Commissioners (s. 87). An order given for a private patient will justify his detention as a pauper patient; and *vice versâ* (25 & 26 Vict. c. 111, s. 26).

Commissioners in Lunacy.]—By the Act of 1862, the Commissioners (or two of them) are empowered to order the removal of pauper lunatics from any workhouse to an asylum (25 & 26 Vict. c. 111, s. 31; and see *post*, p. 326); and they are also empowered to visit any pauper lunatic or alleged lunatic not in an asylum, hospital, licenced house or workhouse; and on obtaining the certificate of a medical man, and being satisfied that the pauper is a lunatic and a proper person to be taken charge of and detained under care and treatment, may order his removal to an asylum; and such order is to have the same effect in all respects as an order of a justice made under the provisions of 16 & 17 Vict. c. 97, s. 67 (see 25 & 26 Vict. c. 111, ss. 32, 33). So that an order for the reception of a pauper lunatic resident in any parish, into a county or borough asylum, may be made by the following authorities:—1. A justice of the peace; 2. The officiating clergyman, together with the relieving officer (or overseer); 3. Any two of the Commissioners in Lunacy.

Pauper Lunatics wandering at large.]—The provisions above noticed refer to the cases of resident lunatics; the cases of pauper lunatics wandering at large being specially provided for by the enactment contained in s. 68 of the 16 & 17 Vict. c. 97. This enactment has been already adverted to, in treating of private lunatics (*ante*, p. 80); and it will not be necessary here to do more than point out that the same proceedings are to be taken, whether the lunatic found wandering at large be a pauper or not. If an order be made by a justice for his admission into an asylum (or other establishment), it must be in the form prescribed by the Act, schedule F, No. 1, and will have the same effect as an order made under s. 67

(see ss. 68, 69, 70, 71, 72, 73). The provisions of ss. 75, 76, and 122 will apply to the medical certificate required under s. 68.

Removal to Settlement Parish.]—The liability of the settlement parish will be noticed, in considering "the incidence of the charge" (see p. 331, *post*); but it is necessary here to advert to the question whether a pauper lunatic resident in any parish can be lawfully removed to the parish of his settlement *instead* of being sent to an asylum. This question was raised in *Reg.* v. *Barnsley* (18 L. J. R. (N.S.) M. C. 170), in reference to the Act 8 & 9 Vict. c. 126, which is now repealed; and it was held that a pauper lunatic who was not a proper person to be sent to an asylum might be removed to the parish of his settlement in the ordinary way. Since the decision of that case, which occurred in 1849, there have been some material alterations of the law, and it is necessary to bear in mind that under the 16 & 17 Vict. c. 97, s. 67, as modified by 25 & 26 Vict. c. 111, s. 19, it is now the duty of the relieving officer (under penalties for neglect) to bring before a justice (or officiating clergyman), within three days, the case of *every* pauper lunatic resident within his district, without exception, whether he may or may not regard the lunatic as "a proper person to be sent to an asylum." If the justice (or officiating clergyman) decline to send the lunatic to an asylum, then the case will become one in which an order may be obtained for removal to the parish of the settlement, unless indeed the pauper be exempt from removal on any ground; but if the pauper be "a proper person to be taken charge of and detained under care and treatment," he ought not to be removed to his settlement parish *instead* of being sent to the asylum. It is right to point out that, whilst under the repealed Act, 8 & 9 Vict. c. 126, a pauper lunatic was sent to an asylum if he was "a proper person to be confined," the expression used in the present statutes is materially different, and the pauper is now to be sent to the asylum if he

be "a proper person to be taken charge of and detained under care and treatment." The object of the law is not mere "confinement," or the restraint of "dangerous" lunatics, so as to prevent mischief, but it has regard to the benefit of the lunatic himself, in placing him under "care and treatment." (*d*)

Conveyance to Asylum.]—If the pauper be ordered to be sent to an asylum, whether by a justice, or by an officiating clergyman and relieving officer (or overseer), the relieving officer (or overseer) is required (under a penalty for neglect) to convey him or cause him to be conveyed immediately to the asylum (or other establishment)—see next paragraph; unless the medical man by whom he was examined shall certify his unfitness to be removed, in which case his removal shall be suspended until he is fit (ss. 67, 71). As to the expenses of the examination and conveyance, see s. 69.

Reception.]—The pauper lunatic mentioned in the order is to be sent to the asylum (if there be one) of the county or borough comprising the parish or place from which he is sent, unless there be a deficiency of room, or unless by reason of special circumstances he cannot be conveniently taken to it (16 & 17 Vict. c. 97, s. 72), or unless he cannot be received into it, in consequence of the existence of any contagious or infectious disease (s. 53). If there be two or more asylums of the same county, the statutes do not specify to which of them the pauper shall be sent; but the selection will probably be regulated by the justices (see Sixth Report of the Commissioners, 1851, p. 5). If there be no asylum of the county or borough, or if there be one and the pauper cannot be received into it or taken to it, he may be sent elsewhere; for the order

(*d*) These remarks will apply to removals to Ireland, or Scotland. It appears from a return made to the House of Commons (Sess. Papers, 16th March 1864, No. 128) that only one instance of the removal of a lunatic pauper (an imbecile) to Ireland had occurred up to that time since the passing of 24 & 25 Vict. c. 76.

will authorise his admission not only into any asylum of the county or borough, or any other asylum for the reception of pauper lunatics of such county or borough, but also into any asylum for any other county or borough, or any registered hospital or licenced house. If he be sent elsewhere, in consequence of deficiency of room, or of special circumstances which prevent his being taken to the asylum, such deficiency of room or special circumstances must be stated in the order; and apparently this must be done at the time when the order is made, as it is to be addressed to the superintendent of the particular asylum, hospital or house to which the pauper is to be sent; and where the pauper is so sent in consequence of there being "no asylum," or "deficiency of room," or "special circumstances," it must state "that the justice or justices or other persons making the order is or are satisfied" thereon. If there be an asylum of the county or borough, the justice or other persons making the order should therefore ascertain whether or not it is full, before the order is made. If the pauper be sent to an asylum which does not belong wholly or in part to the county or borough, or with which there is no contract, or to which the borough is not otherwise contributory, the order must be endorsed by a visitor of such asylum. No pauper lunatic is to be received into any asylum without a proper order, statement and certificate; but if he be duly taken, with the requisite documents, to the asylum to which, according to the statutes, he ought to be taken, it would seem that his admission into such asylum cannot be lawfully refused, unless there be "a deficiency of room," or unless the admission be prohibited on account of contagious or infectious disease. If he be sent to an asylum of some other county or borough, under 16 & 17 Vict. c. 97, s. 43, the guardians, or overseers, may be required to give an undertaking for the due payment of the expenses, and for his removal after notice (c. 97, ss. 72, 73, 78, and s. 53; also s. 43).

Records, and Returns.]—The admission is to be entered in the "Register of Patients" (16 & 17 Vict. c. 97, s. 89; schedule G, No. 1); and copies of the order and other documents, and also a statement from the medical officer of the asylum, are to be forwarded to the Commissioners in Lunacy (s. 89; schedule F, No. 4).

Treatment of Patients.]—The medical officer of the asylum is to keep proper records of the cases of the several patients and their treatment, in "The Medical Journal," and in "The Case Book" (s. 90, and schedule G, No. 3). With respect to the treatment of the patients, it may suffice to refer to the remarks already made on that subject in relation to hospitals and licenced houses (*ante*, p. 74); and to the passages there indicated, in the Reports of the Commissioners in Lunacy (but as to employments and amusements, see also Seventeenth Report, 1863, p. 40).

Diet.]—The Committee of Visitors of every asylum is empowered from time to time to determine the diet of the patients (16 & 17 Vict. c. 97, s. 53); and although the Visiting Commissioners are to inquire "as to the dietary of the pauper patients" (8 & 9 Vict. c. 100, s. 110), it does not appear that they have any authority to regulate it, or to do more than inquire. On this subject, see Eighth Report of the Commissioners, 1854, p. 18, and Appendix E, pp. 77-115.

Ill-treatment.]—If any superintendent, officer, nurse, attendant, servant, or other person employed in any asylum, strike, wound, ill-treat, or wilfully neglect any lunatic confined therein, he may be indicted for misdemeanor, or fined not less than £2, nor more than £20 (16 & 17 Vict. c. 97, s. 123; and see also 8 & 9 Vict. c. 100, s. 56). If any nurse or attendant be dismissed for misconduct, the dismissal is to be reported to the Commissioners (*ante*, p. 303; see also p. 75). With regard to complaints of ill-treatment in particular cases, and inquiries and prosecutions consequent thereon, see the following passages in the Reports of the

Commissioners, viz. :—Eighth Report, p. 34; Eleventh Report, pp. 24-37 (prosecution for manslaughter in the Surrey County Asylum); Fifteenth Report, pp. 55-65 (prosecution for manslaughter in the Middlesex Asylum at Colney Hatch); Sixteenth Report, pp. 53-64; Seventeenth Report, pp. 35-38.

Visits of Friends.]—Information as to persons confined in asylums may be obtained from the Commissioners (8 and 9 Vict. c. 100, s. 84), who may authorize relations or friends to visit them (s. 85).

Escape and Recapture.]—The order for admission, accompanied by the proper certificate, authorises the detention of the lunatic in the asylum until he is duly removed or discharged; and if he escapes, he may be retaken within fourteen days, and again confined under the same order (16 & 17 Vict. c. 97, s. 88). Within three days after the escape or recapture, the clerk of the asylum is to send notice thereof to the Commissioners in Lunacy, subject to a penalty for neglect (s. 93). If the escape occur through the wilful neglect or connivance of any superintendent, officer or servant in the asylum, he will be liable to a penalty of not more than £20, nor less than £2 (s. 124).

Temporary absence.]—Any two of the visitors, with the advice in writing of the medical officer of the asylum, may permit any patient to be absent from the asylum on trial, for such period as he may think fit, making an allowance to him; the amount whereof is to be charged and paid as if he were in the asylum (16 and 17 Vict. c. 97, s. 79). If he do not return at the proper time, he may be retaken within fourteen days afterwards, as in the case of an escape (see above), unless a medical certificate be sent to the visitors, certifying that his detention in an asylum is no longer necessary (s. 79). Any such recapture should, apparently, be reported to the Commissioners by the clerk of the asylum (s. 93). If any superintendent, officer, or servant, permit any patient to be at large, save in the case of temporary absence duly authorised, he will

be liable to a penalty (s. 124). On this subject, see the remarks of the Commissioners, Fifteenth Report, p. 72; and Seventeenth Report, p. 21.

Removal or Transfer.]—Power is given to visitors of asylums, being justices, to order the transfer of pauper lunatics from asylums, registered hospitals, or licenced houses, to other asylums, hospitals, or houses, subject in certain cases to the consent in writing of two of the Commissioners in Lunacy; and the order may be addressed to any overseer or relieving or other officer of the parish, union, or county to which the lunatic is chargeable, or to any other person. The Commissioners in Lunacy, or any two of them, may make a similar order. It may be pointed out that the word "*removal*" is used in these enactments to signify the *transfer* of lunatics from one establishment to another (16 & 17 Vict. c. 97, ss. 77, 78, 82; 18 & 19 Vict. c. 105, s. 8). The removal is to be registered, and notified to the Commissioners (16 & 17 Vict. c. 97, s. 93).

Discharge.]—When a pauper lunatic has been received into an asylum, the power to direct his discharge does not rest with the authorities who sent him there, but is vested in the visitors of the asylum. Any three of the visitors,—or any two of them, with the advice in writing of the medical officer of the asylum,—may order such discharge (16 & 17 Vict. c. 97, s. 79). In any such case, the visitors, if they see occasion to do so, may notify their intention to the overseers of the parish in which the pauper is settled, or from which he was sent; or if he be chargeable to the common fund of any union, to a relieving officer of such union; and on the receipt of this notice, the overseers or relieving officer must remove the pauper forthwith, subject to a penalty not exceeding £10 for neglect (s. 80; and also, as to certain cases, see s. 43). With regard to the mode of removal in such cases, see the circular issued by the Poor Law Board on 27th February, 1857 (Appendix, *post*). Provision is also made for delivering any pauper lunatic to his relatives or

friends, on their giving an undertaking to the satisfaction of the visitors, that he shall be no longer chargeable to any union, parish or county, and shall be prevented from doing injury to himself or others (s. 81). Every discharge must be registered, and notified to the Commissioners (s. 93). As to the establishment of a charitable fund, to meet the case of any patient who has been discharged, in consequence of being cured, and to provide for his wants "in the interval between his leaving the asylum or (licenced house) upon recovery, and his resumption of his ordinary labour," see Thirteenth Report of the Commissioners, 1859, pp. 76, 77.

Death.]—The death of any patient is to be registered by the clerk of the asylum, within three days (16 & 17 Vict. c. 97, s. 93); and within forty-eight hours, a notice and statement, in the prescribed form (schedule F, No. 5), of the death, and the cause of death, and the names of any persons present at the death, must be drawn up and signed by the clerk and medical officer, and copies transmitted to the following persons:—1. The Registrar of Deaths for the district; 2. The Commissioners in Lunacy; 3. In the case of a pauper,—the relieving officer, or the overseers, of the union or parish to which the deceased was chargeable; 4. In the case of a lunatic not a pauper,—the person who signed the order for admission, or who made the last payment (s. 92). Penalties are provided for neglect in these respects (ss. 92, 93). As to legal proceedings against the superintendent of a county asylum for furnishing a defective certificate of the cause of death, which omitted to mention the post-mortem examination, see Seventeenth Report of the Commissioners, 1863, pp. 32-34; and as to proceedings against the clerk of an asylum, for irregularities in regard to the required returns, see the same Report, p. 35. In addition to the notices above referred to, the clerk of the asylum is to send notice of the death by post, in a prepaid letter, to some relation of the deceased, whose name and address

are inserted in the order for admission (25 & 26 Vict. c. 111, s. 25); and the superintendent of the asylum is to give notice to the coroner, so that he may hold an inquest if he deems it necessary (*ibid.* s. 44).

Burial.]—The expenses of the burial are to be borne by the union or parish, or by the county, to which the deceased pauper was chargeable (16 & 17 Vict. c. 97, ss. 43, 120); but, apparently, the burial must be provided for by the authorities of the asylum; *i.e.*, the visitors, or any of their officers duly authorised in that behalf, who, according to the decision of the Court of Queen's Bench, in *Reg.* v. *Stewart* (12 A. & E. 773), appear to be responsible for the decent interment of the corpse, (*d*) and who, by the Act of 1855, are authorised and required to pay the proper burial fees (18 & 19 Vict. c. 105, s. 11). The interment should, of course, as a general rule, take place in the parish in which the death occurs; but where the burial ground of such parish is closed, or overcrowded, the body may be buried in some neighbouring parish, with the consent of the minister and churchwardens (*ibid.*). Or the visitors of any asylum may enter into an agreement, to be approved by the Commissioners in Lunacy, with

(*d*) In delivering the judgment of the Court, in *Reg.* v. *Stewart*, Lord Denman, C. J., said:—"Every person dying in this country, and not within certain exclusions laid down by the ecclesiastical law, has a right to christian burial; and that implies the right to be carried from the place where his body lies to the parish cemetery. Further, to use the words of Lord Stowell, in *Gilbert* v. *Buzzard* (2 Hagg. Consist. Rep. 333, 334), 'that bodies should be carried in a state of naked exposure to the grave would be a real offence to the living, as well as an apparent indignity to the dead.' We have no doubt, therefore, that the common law casts on some one the duty of carrying to the grave, decently covered, the dead body of any person dying in such a state of indigence as to leave no funds for that purpose. The feelings and the interest of the living require this; but the question is, on whom it falls. . . . It should seem that the individual under whose roof a poor person dies is bound to carry the body decently covered to the place of burial; he cannot keep him unburied, nor do anything which prevents christian burial; he cannot, therefore, cast him out, so as to expose the body to violation, or to offend the feelings or endanger the health of the living; and for the same reason, he cannot carry him uncovered to the grave."

any burial board, or the proprietors of any cemetery, for the burial of the pauper lunatics dying in the asylum (s. 12); or land belonging to the asylum, not exceeding two acres, may be set apart and consecrated as a burial ground "for pauper or other lunatics or officers or servants dying in such asylum" (s. 13). In this latter case, the incumbent of the parish is not to be entitled to any fee for the interment of any lunatic, officer, or servant (s. 13). Further powers are given by the Act of 1862 for enlarging existing burial grounds, or acquiring new ones, for pauper lunatics, or otherwise providing for their burial (25 & 26 Vict. c. 111, ss. 9, 10).

Half-yearly Lists, and Statements.]—A list of the pauper lunatics in each asylum is to be furnished every half-year by the clerk of the asylum to the visitors, the clerks of the peace and of the borough justices, and the Commissioners in Lunacy (16 & 17 Vict. c. 97, s. 63); and a statement of their condition is to be sent by the superintendent to the guardians or overseers of the poor (25 & 26 Vict. c. 111, s. 34). See the Circulars of the Poor Law Board and the Commissioners in Lunacy, Appendix, *post*, and *ante*, p. 301.

Sect. 2.—Pauper Lunatics in Registered Hospitals and Licenced Houses.

The registration and licencing, visitation and management, of these establishments having been already treated of (*ante*, pp. 40-78), it will only be necessary here to advert to those provisions which specially refer to the pauper lunatics who may be received into them. (*e*)

Admission.]—The cases in which a pauper lunatic may be sent to a registered hospital or licenced house are pointed out in the 16 & 17 Vict. c. 97, s. 72; which requires that he shall, if practicable, be sent to the

(*e*) On the subject of licencing and continuing to licence houses for the reception of pauper lunatics, see the remarks in the Fourteenth Report of the Commissioners, 1860, pp. 19, 20.

county or borough asylum, and only allows of his being sent elsewhere in the event of there being no such asylum, or of the asylum being full, or of there being "special circumstances" preventing his being taken to it or received into it (see *ante*, p. 312). The order for his admission must state the reasons for his being so sent to the hospital or licenced house; and no pauper can be lawfully received into any such establishment without an order and statement and medical certificate, as prescribed by the statutes. This is enacted by 16 & 17 Vict. c. 96, s. 7, which requires the order, statement and certificate, to be in the forms prescribed in Schedule B; further provisions with reference to the certificate being contained in ss. 10–13. It will be seen, on comparison, that the forms of the order, statement and certificate, are identical with those prescribed in the Lunatic Asylums Act, 16 & 17 Vict. c. 97, schedule F; from which Act the power to make the order is in fact derived (see the proviso to 16 & 17 Vict. c. 96, s. 7). The order may be made by the same persons who have authority, under 16 & 17 Vict. c. 97, to order admission into an asylum (*ante*, p. 309); but it is to be observed that, although it is in terms an "order," and "directs" the superintendent or proprietor to receive the pauper into the particular house or hospital, there is an express provision that "it shall not be compulsory on the superintendent of any registered hospital or the proprietor of any licenced house to receive any lunatic under such order, except in pursuance of any subsisting contract" (16 & 17 Vict. c. 97, s. 78; and see also *Reg.* v. *Hatfield Peverel*, 18 L. J. R. (N.S.) M.C. 225, 14 Q. B. 298). It is, therefore, in the absence of a contract, substantially no more than a request, as in the case of a private lunatic (*ante*, p. 67); and thus differs from an order addressed to the superintendent of the county or borough asylum, which (subject to an exception as regards certain diseases) he is bound to obey, unless there be a deficiency of room (*ante*, p. 313).

The observations made under the following heads, as to private patients, will also apply to pauper patients, viz.—

Records and Returns; Book of Admissions (*ante*, p. 73), *Medical Visitation Book, Medical Case Book* (*ante*, p. 74);—*Notice to Commissioners* (except as to 25 & 26 Vict. c. 111, s. 28, which is confined to private patients) *and to Visitors* (*ante*, pp. 73, 74);—*Treatment, Ill-treatment*, and *Attendants* (*ante*, pp. 74, 75); —*Visits of Friends* (*ante*, p. 76; the provisions of 25 & 26 Vict. c. 111, s. 40, as to *Correspondence*, being confined to private patients);—*Escape and Recapture* (*ante*, p. 76; see also 16 & 17 Vict. c. 97, s. 88);— and *Temporary Absence* (*ante*, p. 76; see especially 25 & 26 Vict. c. 111, s. 38).

Diet.]—The Visiting Commissioners, and visitors, respectively, on their visits to these establishments, are expressly directed to inquire "as to the dietary of the pauper patients, if any" (8 & 9 Vict. c. 100, s. 64); and they are also respectively empowered to determine and regulate such dietary (s. 82); it being further provided "that if such determination and regulation of any visitors and of the Visiting Commissioners shall not agree with each other, then the determination and regulation of the Visiting Commissioners shall be followed" (s. 82). On this subject, see the remarks of the Commissioners, in the "Further Report" of 1847, p. 21, and pp. 113-115; and Thirteenth Report, 1859, pp. 68, 69.

Visitation by Guardians or Overseers.]—Power is given to the guardians of any union or parish, and the overseers of any parish, and any physician, surgeon, or apothecary, to be appointed by them respectively, to visit the pauper lunatics chargeable to such union or parish, confined in any registered hospital or licenced house (16 & 17 Vict. c. 97, s. 65; and *ante*, p. 300).

Removal or Transfer.]—With regard to the powers given to visitors of asylums, being justices, and to

the Commissioners in Lunacy, upon this subject, see the remarks already made (*ante*, p. 316). As to the powers of guardians and overseers, see the next paragraph.

Discharge, on Recovery or otherwise.]—The guardians of any parish or union may, by a minute of their Board, direct that any pauper patient belonging to such parish or union, and detained in any licenced house or any hospital, shall be *discharged or removed* therefrom, and may direct the mode of such discharge or removal; and if a copy of such minute be produced to the proprietor or superintendent of such licenced house or hospital, he shall forthwith discharge or remove such patient accordingly, or cause or suffer him to be discharged or removed (8 & 9 Vict. c. 100, s. 74). It is provided, however, that no such patient shall be so discharged or removed from any licenced house or hospital, if the physician, surgeon, or apothecary, who keeps it, or who is the regular medical attendant, shall certify that such patient is dangerous and unfit to be at large, unless the Commissioners or visitors shall consent, in writing, thereto (s. 75).

In the case of a parish not under a Board of Guardians, similar powers may be exercised by an officiating clergyman and one of the overseers, or by any two justices of the county or borough in which the parish is situate (ss. 74, 75).

Powers are given, under certain restrictions, to the Commissioners, and visitors, respectively, to discharge individual patients, whether paupers or not; but it is required that they shall make two visits before they do so, and they are to give seven days' notice prior to the second visit, a copy whereof is to be sent, in the case of a pauper, to the guardians of the parish or union; or where there are no guardians, to one of the overseers (ss. 76, 80). It seems, therefore, that the guardians, or overseers, would have an opportunity of expressing to the Commissioners, or the visitors, any

objection which they may entertain to the discharge of the pauper in any such case.

In the event of the recovery of a pauper patient, the superintendent or proprietor is to transmit notice of such recovery to the guardians, or the overseers, or the clerk of the peace, as the case may require; and if the pauper be not discharged or removed within fourteen days, then to the Commissioners in Lunacy, and the visitors (16 & 17 Vict. c. 96, s. 19).

Every removal, and discharge, must be registered (8 & 9 Vict. c. 100, ss. 50, 54); and notified to the Commissioners, and the visitors (s. 54). As to the payment of the expenses of the discharge or removal, see 16 & 17 Vict. c. 97, s. 120.

Death—Burial.]—The remarks made as to the death of any private patient will apply to the death of a pauper patient (*ante*, p. 78); but in the case of a pauper, express provision is made for the payment of the expenses attending the burial, which are to be borne by the union, or the parish, or the county (as the case may be), to which the deceased was chargeable (16 & 17 Vict. c. 97, s. 120). The liability to provide for the burial, however, appears to rest upon the authorities of the hospital, or the proprietor of the licenced house, according to the principles laid down in *Reg.* v. *Stewart*, (*ante*, p. 318).

SECT. 3.—PAUPER LUNATICS IN WORKHOUSES.

Visitation by Commissioners.]—By the Act of 1845 (8 & 9 Vict. c. 100, s. 111) (*f*) the Commissioners in Lunacy were empowered to visit all workhouses containing lunatics, and to report thereon to the Poor Law Commissioners. In June, 1847, they made a comprehensive report to the Poor Law Commissioners upon the subject of the lunatics detained in workhouses throughout England and Wales (see "Further Report" of 1847, Appendix A, pp. 233–308); but

(*f*) See Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor in 1844, pp. 95–102.

afterwards they confined themselves to making special reports upon particular workhouses. (See First Annual Report of the Poor Law Board, 1848, p. 9.) In 1853, the enactment above mentioned was repealed, and a new provision substituted, by which authority is given to one or more of the Commissioners, by direction of their Board, to visit workhouses containing lunatics, and to inquire whether the provisions of the law as to lunatics have been carried out, and also as to their dietary, accommodation and treatment; and to report thereon to the Poor Law Board (16 & 17 Vict. c. 96, s. 28. (*g*) By the same Act (s. 29) the Commissioners are empowered, for any special reason, to appoint any competent person or persons to visit, examine and report upon any pauper lunatics in any workhouse.

Quarterly Visits by Medical Officer.]—The medical officer of every workhouse is required to visit the pauper lunatics therein, and to include them in his quarterly list, in which he is to state whether the accommodation in the workhouse is sufficient for them, and whether they are proper patients to be kept in the workhouse (16 & 17 Vict. c. 97, s. 66; 25 & 26 Vict. c. 111, s. 21).

(*g*) See the remarks on this subject in the several Annual Reports of the Commissioners in Lunacy, from the Eighth (1854) to the present time. At the end of 1858, they made a general report upon the subject to the Lord Chancellor, as a "Supplement" to their Twelfth Annual Report; concluding with several suggestions for the amendment of the law. In February 1859, a Select Committee of the House of Commons was appointed "to inquire into the operation of the Acts of Parliament and regulations for the care and treatment of lunatics, and their property." This Committee, which was reappointed in the next session (June, 1859), and again in the following session (February, 1860), entered into an extensive inquiry, and in July, 1860, made a report to the House (see Sess. Paper, 204, 11th April, 1859; Sess. Paper, 156, 5th August, 1859; and Sess. Paper, 495, 27th July, 1860). The detention of pauper lunatics in workhouses was one of the questions which largely engaged their attention (see especially the evidence of Lord Shaftesbury, Mr. Gaskell, and Mr. Lutwidge, Commissioners in Lunacy, and of Mr. Farnall and Mr. Doyle, Poor Law Inspectors; and with respect to which, they made some important recommendations (see note on 4 & 5 Wm. iv. c. 76, s. 45, *post.*)

By Guardians and Overseers.]—The Visiting Committee of every Board of Guardians, and the overseers of every parish not under guardians, are required to enter, every quarter, in a book to be kept for that purpose, their observations as to the dietary, accommodation and treatment of the lunatics or alleged lunatics in the workhouse of the union or parish; and this book is to be laid by the master of the workhouse before the Commissioners (or Commissioner) in Lunacy at their next visit (25 & 26 Vict. c. 111, s. 37).

Dangerous Lunatics.]—The Poor Law Amendment Act of 1834 prohibits the detention in the workhouse of any "dangerous lunatic, insane person, or idiot," (*i.e.*, dangerous lunatic, dangerous insane person, or dangerous idiot), for any longer period than fourteen days; and the violation of this enactment is a misdemeanor (4 & 5 Wm. IV. c. 76, s. 45). On this subject the Poor Law Commissioners, in the Instructional Letter accompanying the General Workhouse Rules which they issued in February, 1842, made some important observations, which will be found elsewhere (see note on 4 & 5 Wm. IV. c. 76, s. 45, *post*). The General Consolidated Order issued in July, 1847, and similar orders, which are in force in all unions and parishes under boards of guardians, contain the following article:—"Art. 101. No pauper of unsound mind, who may be dangerous, or who may have been reported as such by the medical officer, (*h*) or who may require habitual or frequent restraint, shall be detained in the workhouse for any period exceeding fourteen days, and the guardians shall cause the proper steps to be taken for the removal of every such pauper to some asylum or licenced house as soon as may be practicable." (*i*) (See also note on 4 & 5 Wm. IV. c. 76, s. 45, *post*).

(*h*) See Art. 207, No. 4, of the same orders.
(*i*) See Glen's Poor Law Board Orders, seventh edition, 1871.

Lunatics not dangerous.]—Although the prohibition referred to in the preceding paragraph applies only to "dangerous" lunatics, it does not follow that all pauper lunatics who are not dangerous may be lawfully detained in a workhouse. It has been already explained that, under the existing provisions of the law, all pauper lunatics, who are proper objects for the care and treatment which can only be obtained in asylums, hospitals, or licenced houses, ought to be sent there (*ante*, pp. 294 and 304), and the relieving officer who fails to comply with the provisions of the law in this respect is subject to a heavy penalty. Moreover, it is provided by the Act of 1862 that no person, being a lunatic or alleged lunatic, shall be detained in any workhouse for more than fourteen days, unless the medical officer shall certify that he is a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse is sufficient (25 & 26 Vict. c. 111, s. 20); and the Commissioners in Lunacy may order any such person to be removed from the workhouse to an asylum, hospital, or licenced house (ss. 31, 33), but subject to an appeal by the guardians to the Secretary of State for the Home Department (s. 31). It is remarkable that this provision apparently assumed that there was some power to detain a harmless lunatic in a workhouse against his will; though at common law there is no power to restrain a lunatic, except for the purpose of preventing mischief (see Introduction, *ante*, pp. 87–92), and the Law Officers of the Crown (Sir John Campbell and Sir William Follett) advised the Poor Law Commissioners that no insane person could be lawfully detained in a workhouse against his will, unless by reason of danger to himself or others from his insanity (see note on 30 & 31 Vict. c. 106, ss. 22, *post*). The word "kept," which is used in 25 & 26 Vict. c. 111, s. 20, is ambiguous, and may mean either to hold in custody or merely to maintain; and on the whole, the language of that section does not appear to give any direct authority to detain a harmless idiot or lunatic

against his will, though it forbids the detention of any lunatic in a workhouse except under certain conditions. Under these circumstances, 30 & 31 Vict. c. 106, s. 22, was passed, which provides for the temporary detention of any poor person suffering from mental disease, who may not be in a proper state to leave the workhouse without danger to himself or others. The result, therefore, appears to be, that there may still be cases of harmless idiots, and others, who may be lawfully maintained in a workhouse under the conditions prescribed in 25 & 26 Vict. c. 111, s. 20; and, moreover, that these persons may be detained in the workhouse against their will, under the conditions prescribed in 30 & 31 Vict. c. 106, s. 22.

Regulations.]—It is necessary to notice those articles in the General Orders of the Poor Law Commissioners, the Poor Law Board, and the Local Government Board, which relate to the treatment of pauper lunatics in workhouses, as well as their admission and discharge (see note on 4 & 5 Wm. IV. c. 76, s. 45, *post*); but it is requisite to ascertain, as regards each union or parish, whether these orders, or articles, are in force therein. As regards the arrangements for giving baths to insane inmates of workhouses, see the Poor Law Board's circular of 21st March, 1870, Appendix, *post.*

Lunatic Wards.]—In some workhouses, separate wards are set apart for the insane paupers. The existence of such wards is not unlawful; but it will be a question in every case, how far any of the lunatics maintained in them may be proper persons to be sent to an asylum. See the remarks on this subject in the several Reports of the Commissioners in Lunacy. (*j*)

Chronic Lunatics.]—The pressure upon the asylums and other establishments, arising from the constantly

(*j*) As to a case in which the lunatic wards for the insane poor of a parish under a Board of Guardians were situated in another parish, see the Fifteenth Report of the Commissioners (1861), p. 46.

increasing numbers of the insane placed in confinement or under care and treatment with a view to their improvement or cure, appeared to render it desirable to make a special arrangement with regard to chronic and incurable cases. See the remarks on this subject in the several Reports of the Commissioners in Lunacy. The Act of 1862 empowers the visitors of any asylum, and the guardians of any parish or union within the district for which such asylum has been provided, to arrange for the reception of a limited number of chronic lunatics in the workhouse, subject to the approval of the Commissioners in Lunacy, and the President of the Poor Law (now Local Government) Board (25 & 26 Vict. c. 111, s. 8); and the lunatics so received may include lunatics chargeable to other unions or parishes, as well as lunatics chargeable to the parish or union to which the workhouse belongs (25 & 26 Vict. c. 110, s. 2). Difficulties, however, were experienced in carrying these enactments into effect; and in 1869 a further enactment was made in one of the Poor Law Acts, providing that any chronic lunatic so sent to a workhouse should still be regarded as a patient in the asylum (31 & 32 Vict. c. 122, s. 43).

Idiots.]—Provision is made by 31 & 32 Vict. c. 122, s. 13, empowering the Guardians, with the consent of the Local Government Board, to send any "idiotic pauper" to an idiot asylum; and also to send any "idiotic, imbecile, or insane pauper who may be kept in a workhouse" to the workhouse of any other union. Reference may also be made to the 25 & 26 Vict. c. 43, relating to certified schools.

In the Metropolis.]—A special system has been established in the metropolis, in pursuance of the provisions of the Metropolitan Poor Act, 1867, 30 & 31 Vict. c. 6, and the amending Acts, under which such of the insane paupers belonging to the unions and parishes in the metropolis as may be lawfully maintained in a workhouse are received into asylums provided and managed by the Metropolitan Asylums

Board; and it is expressly enacted, by 30 & 31 Vict. c. 6, s. 30, that "every such asylum shall be considered as a workhouse within the meaning of the Lunacy Acts, as defined by the 25 & 26 Vict. c. 111" (see that Act, *post*). As this system is limited to the metropolis, it has not been deemed necessary to include in the present work the statutes relating to it.

Sect. 4.—Pauper Lunatics receiving Out-Door Relief.

Those pauper lunatics who are not proper patients to be sent to an asylum, hospital, or licenced house, need not necessarily be received into the workhouse. The law does not preclude the guardians (if under all the circumstances of the particular case they deem it expedient to do so) from making such an allowance of out-door relief as may provide for the maintenance of any such lunatic under the care of relatives or otherwise. The orders relating to out-door relief issued by the Poor Law Commissioners, the Poor Law Board, and the Local Government Board, except from their operation all cases of mental infirmity affecting any person who requires relief, or any of his or her family. (*k*) With respect to this class of pauper lunatics, see the remarks of the Commissioners in Lunacy, in their several Reports. It has been mentioned already that they are to be visited by the medical officer every quarter, and are to be included in his quarterly return, under the provisions of 16 & 17 Vict. c. 97, s. 66, and 25 & 26 Vict. c. 111, s. 21 (*ante*, p. 305), as well as in the annual return to be prepared by the clerk to the guardians under 16 & 17 Vict. c. 97, s. 64 (*ante*, p. 306). And the Commissioners in Lunacy, or any two of them, are empowered to visit any such pauper lunatic, and on obtaining the requisite medical certificate, and being satisfied that the lunatic is "a proper person to be taken charge of

(*k*) See Glen's Poor Law Board Orders; seventh edition, 1871.

and detained under care and treatment," to order his removal to an asylum, hospital, or licenced house (25 & 26 Vict. c. 111, ss. 32, 33).

Sect. 5.—Incidence of the Charge.

Relief.]—If a pauper lunatic is maintained in a workhouse, or by means of out-door relief (*ante*, pp. 323–329), his relief is chargeable like the relief of other paupers; and consequently, in the case of a union, it is now chargeable on the common fund, under the provisions of the Union Chargeability Act, which was passed in 1865 (28 & 29 Vict. c. 79, s. 1, *post*).

Asylums, Hospitals and Licenced Houses.]—When a pauper lunatic is sent to one of these establishments, under 16 & 17 Vict. c. 97, s. 67, or 25 & 26 Vict. c. 111, ss. 31, 32, 33, the expense is to be defrayed and borne according to the statutory provisions specially applicable to the matter. When a lunatic is sent thither under s. 68 of the first-named Act (*ante*, pp. 80–82), the expense is to be provided for in the same manner, until his own property can be made liable to bear it, or until he is taken charge of by his friends (see s. 118, and the proviso to s. 94; see also ss. 94 and 104; and *ante*, p. 82). According to the general scheme of the Acts, the charge is cast, in the first instance, on the parish, or on the union comprising the parish, from which the lunatic is sent; but it may be transferred (according to circumstances) to the parish of his settlement, or the union comprising it,—or to the county or borough,—or to his own property, if he has any,—or to his relations who may be legally liable for his support.

Primary Charge.]—An order may be made upon the guardians of the union or parish, or where there are no guardians, upon the overseers, for the payment to the treasurer of the asylum, or proper officer of the hospital, or proprietor of the licenced house, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care of the lunatic; and such order

may be made either by the justice who made the order for admission, or by any two justices of the county or borough in which the establishment is situate, or from any part of which the lunatic was sent, or by any two of the visiting justices (16 & 17 Vict. c. 97, s. 96; and as to the costs of the examination and conveyance, see s. 69). As regards an asylum, the rate of charge is regulated by the same Act (s. 54); but as regards a hospital or licenced house, it will be matter for agreement, as the reception of the lunatic is not compulsory, except where there is a contract (s. 78). The guardians (or overseers) however, if they think fit, may pay without an order (s. 103), but the provisions of 22 & 23 Vict. c. 49, *post*, should be referred to, as regards the limitation of the time for payment.

The payments so made (whether with or without an order), if made by the overseers, or by the guardians of a parish, will be primarily chargeable to such parish; but if made by the guardians of a union, to the common fund of such union (16 & 17 Vict. c. 97, ss. 95, 102; 24 & 25 Vict. c. 55, s. 6). Prior to the year 1861, the only lunatics chargeable to the common fund in unions were those who were irremovable under 9 & 10 Vict. c. 66; but in that year it was enacted by the 24 & 25 Vict. c. 55, s. 6, that the expense of all lunatics in asylums, hospitals, or licenced houses should in future be borne by the common fund (Sixteenth Report of the Commissioners in Lunacy, 1862, pp. 68, 69; Fourteenth Report of the Poor Law Board, 1862, p. 32). Moreover, the cost of all relief is now chargeable to the common fund in unions, under 28 & 29 Vict. c. 79, s. 1, *post*.

Parish of the Settlement.]—If the pauper lunatic when sent to the asylum or other establishment be exempt from removal under any provision of 9 & 10 Vict. c. 66, no order for the payment of the expenses can be made upon the parish of his settlement (16 & 17 Vict. c. 97, s. 102); but if he be not so exempt, an

order may be obtained under s. 97 of 16 & 17 Vict. c. 97, adjudicating the settlement, if the parish of the settlement be known, and directing payment to be made by the guardians of such parish, or of the union comprising such parish. Where the maintenance is chargeable to the common fund under 24 & 25 Vict. c. 55, s. 6, this order may be applied for by the guardians of the union, under s. 7. Payment may be made, however, by the guardians of the parish of the settlement, or of the union comprising that parish without any order (16 & 17 Vict. c. 97, s. 103). Special provisions are enacted with respect to appealing against any such order; as also against the refusal of an order (ss. 106-119); as well as for enforcing it when made (s. 121).

County or Borough.]—If, however, the settlement of the lunatic cannot be ascertained (or if he have in fact no settlement), the charge may be transferred to the county in which he was found (16 & 17 Vict. c. 97, s. 98; 12 & 13 Vict. c. 82, s. 2), or in certain cases, to the borough in which he was found (25 & 26 Vict. c. 111, s. 45).

Special provision is made by 30 & 31 Vict. c. 106, s. 23, *post*, and 31 & 32 Vict. c. 122, s. 14, *post*, for the case of pauper lunatics sent from a borough not contributing to the county asylum. In any such case, where the borough is in a union, the visitors of the asylum are to make out two accounts, one to be sent to the guardians of the union, and the other to the town council of the borough; and the ordinary charge is to be paid by the guardians, and the extra charge by the town council. Similar provisions are made in 39 & 40 Vict. c. 61, s. 26, *post*, with respect to lunatics sent from boroughs to registered hospitals or licenced houses.

Repayment from Parliamentary Grant.]—With respect to the grant now annually made by Parliament in aid of the cost of the maintenance of pauper lunatics in county or borough asylums, registered hospitals, and

licenced houses, it may be observed that the repayments are made through the Local Government Board, and the terms and conditions of such repayments are explained in the circulars of that Board, which will be found in the Appendix, *post.*

Property of Lunatic—Pensions.]—Where the lunatic has an estate more than sufficient to maintain his family, it may be applied under order of justices towards his support (7 & 8 Vict. c. 101, s. 27; 16 & 17 Vict. c. 97, s. 94 and s. 104); and special provisions are also made with regard to Greenwich and Chelsea pensioners (19 & 20 Vict. c. 15, s. 9; 26 & 27 Vict. c. 12); and with regard to members of benefit societies (39 & 40 Vict. c. 61, s. 23). As to the powers of the Lord Chancellor where the property is small, see 25 & 26 Vict. c. 86, ss. 12-14 (*ante*, pp. 27, 28); and as to orders made by the Court of Chancery, and the Court of Probate, on behalf of overseers or guardians, see the several cases referred to in the notes on 16 & 17 Vict. c. 97, s. 104 (*post*), 7 & 8 Vict. c. 101, s. 27 (*post*), and 12 & 13 Vict. c. 103, s. 16 (*post*).

Relations.]—The liability of the relations of the lunatic to contribute towards his maintenance is not in any way varied or affected by the fact of his being confined in an asylum, hospital, or licenced house (16 & 17 Vict. c. 97, s. 105); but it is not necessary here to refer to the statutes on that subject, which do not relate specially to lunatics, except the enactment contained in 13 & 14 Vict. c. 101, s. 5 (*post*), which (as amended by 39 & 40 Vict. c. 61, s. 20, *post*) enforces the obligation of a husband to support his lunatic wife.

II. Statutes relating to Pauper Lunatics.

		PAGE
1. County and Borough Asylums :—(*a*)		
8 & 9 Vict. c. 100	4 Aug. 1845	182
12 & 13 Vict. c. 82, s. 2	1 Aug. 1849	337
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97	20 Aug. 1853	336
17 & 18 Vict. c. 114	11 Aug. 1854	468
18 & 19 Vict. c. 105	14 Aug. 1855	470
19 & 20 Vict. c. 87	29 July 1856	480
25 & 26 Vict. c. 111	7 Aug. 1862	481
26 & 27 Vict. c. 110	28 July 1863	512
28 & 29 Vict. c. 80	29 June 1865	515
31 & 32 Vict. c. 122, ss. 13, 43	31 July 1868	523
34 & 35 Vict. c. 14, s. 2	25 May 1871	517
2. Registered Hospitals and Licenced Houses :—(*b*)		
8 & 9 Vict. c. 100	4 Aug. 1845	182
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97	20 Aug. 1853	336
17 & 18 Vict. c. 114	11 Aug. 1854	468
18 & 19 Vict. c. 105	14 Aug. 1855	470
25 & 26 Vict. c. 111	7 Aug. 1862	481
31 & 32 Vict. c. 122, s. 13	31 July 1868	523
3. Workhouses :—(*c*)		
4 & 5 Wm. iv. c. 76, s. 45	14 Aug. 1834	518
16 & 17 Vict. c. 96, ss. 28, 29	20 Aug. 1853	280–1
16 & 17 Vict. c. 97	20 Aug. 1853	336
25 & 26 Vict. c. 111	7 Aug. 1862	481
30 & 31 Vict. c. 106. s. 22	20 Aug. 1867	521
31 & 32 Vict. c. 122, ss. 13, 43	31 July 1868	523
4. Lunatics receiving Out-relief :—(*d*)		
16 & 17 Vict. c. 97	20 Aug. 1853	336
25 & 26 Vict. c. 111	7 Aug. 1862	481
31 & 32 Vict. c. 122	31 July 1868	523

(*a*) See Introduction, *ante*, pp. 295, 319.
(*b*) See Introduction, *ante*, pp. 319, 323.
(*c*) See Introduction, *ante*, pp. 323, 329.
(*d*) See Introduction, *ante*, pp. 329, 330.

		PAGE
5. Incidence of the charge :—(*e*)		
[*In addition to the foregoing Acts :*]		
7 & 8 Vict. c. 101, ss. 25, 27 . .	9 Aug. 1844	525
12 & 13 Vict. c. 103, ss. 3, 4, 16 .	1 Aug. 1849	527
13 & 14 Vict. c. 101, s. 5 . .	14 Aug. 1850	529
19 & 20 Vict. c. 15, s. 9 . . .	11 April 1856	531
22 & 23 Vict. c. 49, ss. 1, 4, 7 . .	13 Aug. 1859	535
24 & 25 Vict. c. 55, ss. 6, 7 . .	1 Aug. 1861	537
28 & 29 Vict. c. 79, s. 1 . . .	29 June 1865	539
30 & 31 Vict. c. 106, s. 23 . .	20 Aug. 1867	522
31 & 32 Vict. c. 122, s. 14 . .	31 July 1868	523
39 & 40 Vict. c. 61, ss. 20, 23, 26 .	15 Aug. 1876	532
6. The Metropolis :—(*f*)		
30 & 31 Vict. c. 6	29 Mar. 1867	
31 & 32 Vict. c. 122, s. 35 . .	31 July 1868	
32 & 33 Vict. c. 63	9 Aug. 1869	
32 & 33 Vict. c. 102, s. 37 . .	9 Aug. 1869	
33 & 34 Vict. c. 18	20 June 1870	
34 & 35 Vict. c. 15	25 May 1871	
38 & 39 Vict. c. 65	11 Aug. 1875	
38 & 39 Vict. c. 89	13 Aug. 1875	
39 & 40 Vict. c. 61, ss. 40–43 . .	15 Aug. 1876	

(*e*) See Introduction, *ante*, pp. 330, 333.

(*f*) See Introduction, *ante*, pp. 328, 329. The Acts relating to the metropolis are not printed in the present volume, except one enactment, specially relating to lunatics—viz., 30 & 31 Vict. c. 6, s. 30, which will be found on p. 540, *post*. The system, while confined to the metropolis, is not confined to lunatics, but extends to asylums for the sick, the infirm, and other classes of poor persons.

16 & 17 Vict. c. 97.

An Act to consolidate and amend the Laws for the Provision and Regulation of Lunatic Asylums for Counties and Boroughs, and for the Maintenance and Care of Pauper Lunatics in England.

[20*th August* 1853.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

8 & 9 *Vict. c.* 126, 9 & 10 *Vict. c.* 84, *and* 10 & 11 *Vict. c.* 43, *repealed, but not to affect Appointments, etc.*

I. The following Acts relating to Lunatic Asylums for Counties and Boroughs, and the Maintenance and Care of Pauper Lunatics, in England (that is to say), an Act of the session holden in the eighth and ninth years of Her Majesty, chapter one hundred and twenty-six, an Act of the session holden in the ninth and tenth years of Her Majesty, chapter eighty-four, and an Act of the session holden in the tenth and eleventh years of Her Majesty, chapter forty-three, shall be repealed; but such repeal shall not interfere with or affect any appointment, salary, or annuity made or granted, or act done, or agreement or contract entered into or made, or prevent or defeat any prosecution or proceeding for any offence committed or any penalty or forfeiture incurred before the commencement of this Act, but every such agreement or contract shall and may (subject to the provisions hereinafter contained in relation thereto) be carried into effect and enforced, and every such offence prosecuted, and every such penalty and forfeiture sued for, recovered, and applied, and every pending prosecution or proceeding continued, in like manner, as if this Act had not been passed.

AS TO PROVIDING ASYLUMS AND APPOINTMENT OF COMMITTEES OF VISITORS.

Justices of County and Borough not having a Lunatic Asylum to provide one, and Justices of the County or Recorder of the Borough at or before a certain time to direct notice to be given of the Intention to appoint a Committee for that purpose.

II. The justices of every county (*a*) and (save as hereinafter otherwise provided) of every borough (*a*) not having an asylum (*b*) for the pauper lunatics thereof shall provide an asylum in manner herein directed, (that is to say,) the justices of every such county and the recorder of every such borough shall at or before the general or quarter sessions for such county or borough next after the twentieth day of December one thousand eight hundred and fifty-three, (*c*) direct public notice to be given by the clerk of the peace of such county or borough, in some newspaper or newspapers commonly circulated in such county or borough, of the intention of the justices of such county or borough to appoint at the then next general or quarter sessions for such county, or (in the

(*a*) See also s. 7, *post;* s. 9, *post;* s. 10, *post;* ss. 129, 130, *post;* s. 131, *post;* s. 132, *post;* and the Acts referred to in the several notes thereon. The 12 & 13 Vict. c. 82, s. 2, passed 1st August, 1849, enacts as follows:—

"From and after the passing of this Act no such borough as aforesaid [*i.e.*, no borough to which a separate court of quarter sessions of the peace hath or shall have been granted under the provisions of 5 & 6 Wm. IV. c. 76: See s. 1 of the Act] which shall possess or provide or shall have commenced and shall be *bonâ fide* proceeding with the construction of a sufficient asylum to the satisfaction of one of Her Majesty's principal Secretaries of State for the reception or care of the pauper lunatics in such borough, in pursuance of the said Act [*i.e.*, 8 & 9 Vict. c. 126, now repealed] for amending the laws for the provision and regulation of lunatic asylums for counties and boroughs and for the maintenance and care of pauper lunatics in England, shall be liable to pay or contribute to the payment of any costs, charges or expenses incident to the future or subsequent purchase, erection, fitting up, or maintenance of any new lunatic asylum by the county in which such borough is situate, or to the payment of any costs, charges or expenses which may be incurred after such asylum shall be actually opened for the reception or care of the pauper lunatics in such borough, for maintaining any pauper lunatics chargeable to such county."

(*b*) s. 8, *post.*

(*c*) s. 13, *post.*

case of a borough) at a special meeting of the justices of such borough to be fixed in such notice, and to be holden within three months from the date thereof, a committee of justices to provide an asylum for the pauper lunatics of such county or borough, under the provisions of this Act; and the clerk of the peace of such county or borough shall, within ten days after being so directed as aforesaid, cause such notice to be given accordingly.

Justices to appoint a Committee to superintend the providing of an Asylum, or to treat with some County, etc., or to effect one or other of such Purposes.

III. The justices of every such county (*d*) and borough (*d*) respectively (such notice having been given as aforesaid (*e*) shall at the then next general or quarter sessions for such county, or at such special meeting as aforesaid (*e*) of the justices of such borough, either themselves determine in which of the modes hereinafter mentioned an asylum shall be provided for such county or borough, or shall refer the selection to the committee to be appointed as hereinafter mentioned, (*f*) and shall elect some justices of such county or borough to be a committee to provide such asylum, (*f*) and may authorise such committee to provide such asylum, in such of the modes hereinafter mentioned as the said justices shall have determined, (that is to say,) to superintend the erecting or providing an asylum for the pauper lunatics of such county or borough for such county or borough alone, or to treat and enter into an agreement for uniting with any county or counties, borough or boroughs, alone or together with the subscribers to any hospital (*g*) for the reception of lunatics, established or in course of erection, or afterwards to be established, or for uniting with any county or counties and borough or boroughs jointly, or jointly and also together with the subscribers to any such hospital as aforesaid, (*g*) in erecting or otherwise providing an asylum under or for the purposes of this Act, as the justices appointing such committee may have determined, or in case the said justices ap-

(*d*) See note (*a*) to sec. 2, *ante*.
(*e*) s. 2, *ante*.
(*f*) See also 19 & 20 Vict. c. 87, *post*.
(*g*) See also 18 & 19 Vict. c. 105, s. 1, *post*.

pointing such committee think fit to refer the selection of the mode in which such asylum shall be provided to the committee, they may authorise such committee to provide such asylum in such of the modes aforesaid as to the committee may seem best; and any committee so authorised to treat and enter into an agreement may treat and enter into such agreement with any committee or committees having due authority in that behalf under this Act, or any former Act, for any county or counties, borough or boroughs, or on behalf of any such subscribers as aforesaid, and with any committee of visitors of any existing asylum, and whether or not any previous agreement for uniting may have been already entered into between some of the parties under this Act or any former Act; and by any such agreement to be entered into as aforesaid the several committees, parties thereto, may, to the extent of their authority, in lieu of agreeing to erect or provide an asylum, or in addition thereto, and in consideration of any payment in gross or of the payment of any sum in the nature of rent or otherwise, agree for the joint use of any existing asylum or hospital, and, where they think fit, for enlarging the same.

Subscribers to any Hospital empowered to appoint a Committee to treat for uniting with any County or Borough, etc.

IV. It shall be lawful for the major part of such of the subscribers to any such hospital as aforesaid (*h*) as shall be present at any meeting of such subscribers called together expressly for this purpose by advertisement in a newspaper commonly circulated in the place where such hospital is or is intended to be situate, to elect any number of such subscribers not exceeding five to be a committee to treat and enter into an agreement for uniting with any county or counties and borough or boroughs alone, or any county or counties and borough or boroughs jointly, under and for the purposes of this Act; (*i*) and where any such agreement has been or shall be entered into under any former Act or this Act, nothing in this Act shall prevent the reception into the asylum provided under such agreement, or the discharge therefrom, of so many of any lunatics other than pauper

(*h*) s. 3, *ante*.
(*i*) See also 18 & 19 Vict. c. 105, s. 1, *post*.

lunatics as might have been received into such hospital or asylum if this Act had not been passed.

Committees of Visitors of existing Asylums may enter into Agreements to unite.

V. It shall be lawful for the committee of visitors of any asylum already provided for any county or borough, alone or otherwise, to enter into an agreement for uniting for the purposes of this Act with any county or counties, borough or boroughs, alone or together with the subscribers to any such hospital as aforesaid, (*j*) or for uniting with any county or counties and borough or boroughs jointly, or jointly and also together with the subscribers to any such hospital. (*j*)

Saving where a Committee is already appointed, or Proceedings for the appointment of a Committee have been commenced.

VI. Provided always, that where a committee has been appointed before the commencement of this Act for any county or borough for any of the purposes aforesaid, (*k*) or proceedings have been taken for or towards the appointment of a committee for any of the said purposes, nothing herein contained shall render it necessary to proceed afresh to the appointment of a committee for any of such purposes; and any proceedings already taken as aforesaid shall remain in force and be continued; and all the provisions of this Act shall be applicable to any such committee already appointed, or to be appointed under such proceedings, in like manner as if such committee had been appointed under the provisions of this Act.

Justices of Boroughs may contract with Committees of Visitors, etc., for reception of Pauper Lunatics of the Borough.

VII. Provided also, that it shall be lawful for the justices of any such borough as aforesaid, (*l*) at such special meeting, (*l*) if they think fit, in lieu of electing a committee to superintend the erecting or providing of an asylum, or to treat for uniting as hereinbefore mentioned (*l*) or to

(*j*) s. 3, *ante*; and 18 & 19 Vict. c. 105, s. 1, *post*.
(*k*) s. 3, *ante*.
(*l*) s. 2, and s. 3, *ante*.

effect either of such purposes, to elect a committee of justices of such borough to contract with any committee of visitors of any existing asylum, or any committee providing or about to provide an asylum, whether for any county or borough, alone or otherwise, for the reception of the pauper lunatics of such first-mentioned borough into such asylum, in consideration of such payment in gross, or such annual or periodical payment, and upon and subject to such terms, stipulations, and conditions as to the duration and determination of the contract, and otherwise, as may be agreed upon; (*m*) and it shall be lawful for any committee of visitors of any existing asylum, or any other such committee as last aforesaid, to contract with the committee for any such borough accordingly; (*n*) and during the continuance of such contract the justices of such borough shall, at a special meeting of such justices to be holden within twenty days after the twentieth day of December in every year, appoint a committee of such justices to visit the pauper lunatics sent from such borough to such asylum, and two at least of the members of such committee shall together once at the least in every six months visit such asylum, and see and examine as far as circumstances will permit every lunatic received into such asylum under such contract, and shall after each such visit report the result thereof, with such remarks as they think fit, to the justices of such borough at a special meeting of such justices; and the justices making any such visit may, if they see fit, be accompanied by some physician, surgeon, or apothecary, other than a medical officer of the asylum; and such justices may by writing under their hands order the payment to such physician, surgeon, or apothecary of such reasonable sum for his services on any such visit as they may think fit, and such sum shall, upon the production of such order, be paid to such physician, surgeon, or apothecary by the treasurer of such borough; and every report of such justices so visiting shall be entered among the records of the court of quarter sessions of such borough, and shall be open to the inspection of any of the Commissioners in Lunacy; and such Commissioners may, if they think fit, require a copy of every or any such report to be transmitted to them by the

(*m*) See s. 45, *post*.
(*n*) See 25 & 26 Vict. c. 111, s. 6, *post*.

clerk of the peace of such borough; and while any such contract making adequate provision for the pauper lunatics of such borough is in force such borough shall not be required to provide an asylum for itself alone, or in union, as hereinbefore mentioned. (*o*)

Boroughs now contributing to a County Asylum deemed to have an Asylum, but upon Notice may separate from the County.

VIII. Provided also, that every borough situate within a county having an asylum for pauper lunatics, and which at the time of the passing of the said Act of the eighth and ninth years of Her Majesty (*p*) contributed and still contributes to such asylum, shall be considered as having an asylum for the pauper lunatics of such borough;(*q*) but it shall be lawful for any such borough, at any time hereafter, upon giving six months' notice in writing under the hand of the town clerk, in pursuance of a resolution of the council of such borough, to the clerk of the peace of the county, to separate itself, so far as relates to the establishment of a lunatic asylum for such county, and the maintenance of lunatics therein, from such county, and from and after the expiration of such notice such borough shall for the purposes of this Act be deemed a borough not having an asylum for the pauper lunatics thereof;(*q*) and from and after the expiration of such notice, and the withdrawal from such county asylum of all lunatics from or belonging to such borough, such borough shall not be liable to pay or contribute towards the expense of the establishment of such asylum or the maintenance of lunatics therein, but until the withdrawal from such county asylum of all lunatics from or belonging to such borough such borough shall be liable to contribute towards the expenses of such asylum, in the same manner and to the same extent as if such notice had not been given.

(*o*) ss. 2, 3, *ante*. See Eleventh Report of the Commissioners in Lunacy, 31st March 1857, pp. 19-22.

(*p*) 8 & 9 Vict. c. 126; which was passed on 8th August, 1845; and repealed by the present Act: see s. 1, *ante*.

(*q*) s. 2, and s. 3, *ante*.

Every Borough not having Six Justices, besides the Recorder, to be annexed to the County or one of the Counties in which it is situate for the purposes of this Act.—Recorder to Appoint Two Justices to be Members of Committee of Visitors. —5 & 6 *Wm. IV. c.* 76.

IX. Provided also, that every borough in which at the passing of the said Act of the eighth and ninth years of Her Majesty hereby repealed, (*r*) there were not six justices, besides a recorder shall, for the purposes of this Act, be annexed to and be part of the county in which it is wholly situate, or in case it be not wholly situate in any one county shall for the purposes of this Act be annexed to and be part of such one of the counties in which it is situate as such borough may have been annexed to under the said Act of the eighth and ninth years of Her Majesty, or if not already so annexed then the same shall be annexed to and be part of such one of the said counties as one of Her Majesty's principal Secretaries of State shall by writing under his hand direct; (*s*) and the recorder of every such borough shall, at the general or quarter sessions next after the twentieth day of December in every year, appoint two justices of such borough to be members of the committee of visitors of the asylum of the county to which such borough is or shall be annexed; (*t*) and the justices of every county to which any borough is or shall be annexed as aforesaid shall, at their general or quarter sessions, from time to time fix the sum to be contributed by such borough towards the expenses of and incident to erecting, providing, and maintaining the asylum of such county, (*u*) according to the comparative population of such borough and county as stated in the then last returns made of the same under the authority of Parliament, and cause notice thereof in writing to be given to the treasurer of such borough, and such sum shall be raised by a borough rate to be made by the council of the borough in manner directed by the Act of the session holden in the fifth and sixth years of King William the Fourth, "to provide for

(*r*) See note (*p*) to s. 8, *ante*.
(*s*) See also 19 & 20 Vict. c. 87, *post*.
(*t*) See s. 22, *post*; s. 27, *post*; s. 28, *post*; and 18 & 19 Vict. c. 105, s. 7, *post*.
(*u*) See also 18 & 19 Vict. c. 105, s. 7, *post*.

the Regulation of Municipal Corporations in England and Wales," or out of the borough fund, if the council think fit, and shall be paid by the treasurer of the borough to the treasurer of the asylum.

Boroughs neglecting to provide an Asylum or to contract for the Care of their Pauper Lunatics may be annexed by Secretary of State to the County.—Justices of Borough so annexed shall appoint Two Justices to be Members of Committee of Visitors.

X. If at any time after the expiration of one year after the passing of this Act it appear to one of Her Majesty's principal Secretaries of State, upon the report of the Commissioners in Lunacy, that the justices of any borough by this Act required to provide an asylum, or contract for the care of the pauper lunatics thereof, have not provided an asylum, or entered into an agreement for that purpose, or into a subsisting contract making adequate provision for the care of the pauper lunatics thereof in some asylum, and that any asylum belonging wholly or in part to the county or any of the counties (if more than one) in which such borough is locally situate, either wholly or in part, is capable of affording accommodation for the pauper lunatics of such borough, or may be conveniently enlarged so as to afford such accommodation, it shall be lawful for such Secretary of State, with the consent of the committee of visitors of such asylum, by writing under his hand, to annex such borough for the purposes of this Act to such county;(*v*) and the justices of every borough so annexed under this provision shall, at a special meeting of such justices to be holden within twenty days after the twentieth day of December in every year, appoint two justices of such borough to be members of the committee of (*w*) visitors of the asylum of the county to which such borough shall be annexed; and the provision in the enactment lastly hereinbefore contained in relation to the contribution by a borough annexed to a county under such enactment to the expenses of the asylum of such

(*v*) See Twelfth Report of the Commissioners in Lunacy, 31st March, 1858, pp. 20, 25.

(*w*) Erroneously printed "or" in some impressions of the Act, printed by the Queen's printer.

county shall extend to any borough so annexed under this provision. (*x*)

Powers of Committees may be enlarged.

XI. Where any committee has been appointed for any county or borough (whether before or after the passing of this Act) for any of the purposes hereinbefore mentioned, it shall be lawful for the justices of such county or borough, if they think fit, at any general or quarter sessions for such county, or (in the case of a borough) at any special meeting of the justices of such borough, after like public notice as is required in the case of the first appointment of the committee, (*y*) to enlarge or alter the powers of the committee so as to vest in the committee any such powers as might be vested in any committee on the original appointment thereof under this Act, and, if the justices see fit so to do, to appoint additional members of the said committee, and every such committee shall have the like powers, and the provisions of this Act shall be applicable to such committee in like manner, as if such committee had been originally appointed with the powers so vested in them under such enlargement or alteration of their powers.

New Committees to be appointed in lieu of Committees which have ceased or shall hereafter cease to exist, etc.

XII. Where any committee appointed for any county or borough (either before or after the passing of this Act) for any of the purposes hereinbefore mentioned has ceased or shall hereafter cease to exist, without carrying into effect the purposes for which it was appointed, or, if appointed for the purpose only of treating for uniting or of contracting as aforesaid, has reported or shall hereafter report that it is not practicable or expedient to enter into an agreement for uniting or into the proposed contract, or to that effect, the justices of such county or the recorder of such borough shall, at or before the general quarter sessions next after the passing of this Act, or next after the occasion has arisen, cause public notice to be given, in manner herein directed in the case of the original appointment of a committee under this Act (*y*) for any of the said purposes, of the intention of the justices

(*x*) s. 9, *ante*.
(*y*) See s. 2, *ante*.

of such county or borough to appoint at the then next general or quarter sessions for such county, or (in the case of a borough) at some special meeting of the justices of such borough to be fixed in the notice and to be holden within three months from the date thereof, a committee in lieu of the committee previously appointed as aforesaid; and such notice having been so given, the justices of such county or borough shall, at the then next general or quarter sessions for such county, or at such special meeting as aforesaid of the justices of such borough, appoint a committee accordingly, and shall have the like discretion and authority for determining the purposes for which such committee shall be appointed as in the case of an original appointment of a committee under the provisions hereinbefore contained; or such justices may, if they think fit, in lieu of appointing a new committee in the place of any such committee appointed only for the purpose of treating for uniting or of contracting as aforesaid, and which may have reported that it is not practicable or expedient to enter into an agreement for uniting or into the proposed contract, or to that effect, enlarge or alter the powers of such committee as hereinbefore provided, and, if such justices think fit, appoint additional members of such committee.

Notice for Appointment of a Committee given at a Time subsequent to that required by this Act, and the Appointment of such Committee to be valid.

XIII. Provided always, that where the justices of any county or the recorder of any borough have or has not, in pursuance of any of the provisions hereinbefore contained, (*z*) at or before such general or quarter sessions as in that behalf required, caused notice to be given of the intention of the justices of such county or borough to appoint a committee under this Act, it shall be lawful for the justices of such county or the recorder of such borough, at or before any subsequent general or quarter sessions, to cause such notice to be given in manner required by this Act; and the appointment of a committee in pursuance of such notice, or the enlargement or alteration of the powers of any existing committee, and the appointment of any additional members

(*z*) s. 2, *ante;* s. 7, *ante;* s. 12, *ante.*

of such committee, at the sessions or meeting for which such notice has been given, shall be valid.

Committees uniting to enter into Agreement in the Form in Schedule.

XIV. When two or more committees agree to unite for the purposes of this Act, an agreement (*a*) shall be entered into and signed by the several committees uniting, or the major part of such committees respectively, in the form or to the effect set forth in schedule (A) to this Act; (*b*) and such agreement, when signed by the major part of each such committee, and not before, shall be binding upon every county and borough, and the subscribers (if any) for or on behalf of which or whom such agreement has been entered into; and every such agreement shall specify the proportion in which the expenses necessary for carrying into execution the purposes of this Act shall be charged upon each county and borough, and the subscribers (if any) so uniting; and the proportions of the counties and boroughs uniting shall be calculated and fixed with reference to their respective populations as stated in the then last return made of the same under the authority of Parliament; (*c*) and where under any such agreement a right to the joint use of any existing asylum or hospital is required by any county or borough, or the subscribers to any hospital, such agreement shall fix the sum to be paid by such county, borough, or subscribers towards the expenses already incurred in erecting or providing such asylum or hospital.

Additional Stipulations or Conditions may be inserted in Agreement, but not so as to subject Acts of Visitors to control of General or Quarter Sessions.

XV. Provided always, that it shall be lawful for such committees to insert in the agreement to be entered into by them any stipulations or conditions, in addition to the matters by this Act required to be specified in such agreement, so that such additional stipulations or conditions do not in any way subject the acts of the committee of visitors to the approval or control of any court of general or quarter sessions, or of

(*a*) See s. 45, *post*.
(*b*) 18 & 19 Vict. c. 105, s. 3, *post*.
(*c*) 18 & 19 Vict. c. 105, s. 4, *post*.

any justices, in any case not provided for by this Act, and the additional stipulations and conditions so inserted in the said agreement shall be of the same force and effect as the matters so required to be specified, notwithstanding that such additional stipulations or conditions may control in any other manner than as hereinbefore specified and excepted the discretion and acts of the committee of visitors as regulated by this Act, or may require the consent or approval of, or may subject the acts or orders of the visitors to be disallowed, modified, or controlled by, one of Her Majesty's principal Secretaries of State, in cases not provided for by this Act; but any stipulations or conditions subjecting the acts of the committee of visitors to the approval or control of any court of general or quarter sessions, or of any justices, in any case not provided for by this Act, shall be void and of none effect.

With Consent of Visitors, Stipulations may be repealed.

XVI. Provided also, that with the consent in writing under the hands of the greater number of visitors of each county and borough, and of the greater number of visitors of any body of subscribers united under any agreement entered into under this Act or any former Act, and with the previous consent in writing under the hand of one of Her Majesty's principal Secretaries of State, the committee of visitors may from time to time repeal or alter any of the stipulations or conditions of such agreement, (*d*) but not so as to subject the acts of the committee of visitors to the approval or control of any court of general or quarter sessions, or of any justices, in any case not provided for by this Act.

Proportions of Expenses and of Visitors may be varied on any further Union being effected.

XVII. Where any agreement for uniting has been entered into under this Act or any former Act, and the union (*e*) effected thereunder is added to by an agreement for further union, (*e*) the proportions in which any expenses are under any former agreement for union (*e*) to be charged on the counties or boroughs, or counties and boroughs, and the subscribers, if any, uniting, and the proportions in which

(*d*) 18 & 19 Vict. c. 105, s. 2, *post*.
(*e*) See note to s. 39, *post*.

visitors are to be elected for and on behalf of such counties or boroughs, or counties and boroughs, and subscribers (if any), may be altered as may be agreed upon.

As to Payment and Application of Money paid towards prior expenses, or becoming repayable under Agreement for further Union.

XVIII. Where under an agreement for union (*f*) any money is to be paid towards the expenses already incurred by any county or borough in erecting or providing any asylum, the same shall be paid to the treasurer of such county or borough, and shall be applied in liquidation and payment, *pro tanto*, of the monies, if any, which shall have been raised by such county or borough for the purposes of this Act or the Acts hereby repealed, or any of them, in such manner as the justices of such county at any general or quarter sessions for the same, or the council of such borough, shall respectively order and direct; or if all such monies shall have been paid, then the same shall be applied in diminution of any rate to be made in pursuance of this Act.

Committees of Justices to report Agreement to Quarter Sessions, and the Original to be delivered to Clerk of the Peace of the County or Borough in which the Asylum is situate, and a Copy to Clerk of the Peace of each other County and Borough.

XIX. When any agreement has been entered into and signed as aforesaid, (*g*) the committee for each county and borough on behalf of which the same has been entered into shall report the same to the justices of such county or the recorder of such borough at the then next general or quarter sessions; and the original agreement shall, at such sessions for the county or borough in which the asylum to which the same relates is situate or is intended to be situate, be delivered to the clerk of the peace of such county or borough, to be by him entered among the records thereof; and a copy of such agreement shall at such sessions for each other county or borough on behalf of which such agreement has been entered into be delivered to the clerk of the peace of such county or borough, to be by him entered among the records

(*f*) See note to s. 39, *post*.
(*g*) s. 14, *ante*.

thereof; and a copy of every such agreement shall be sent by the clerk of the peace to whom the original agreement is delivered, within twenty days after the delivery thereof to him, to the Commissioners in Lunacy; and any of the justices of any county or borough on behalf of which such agreement has been entered into, and any Commissioner in Lunacy, shall be entitled, without payment, to inspect the original agreement so delivered to the clerk of the peace as aforesaid; and any clerk of the peace, hereby required to send to the said Commissioners a copy of any agreement, who shall neglect so to do within the time aforesaid, and any clerk of the peace who shall refuse to permit such inspection as aforesaid, shall for every such offence be liable to a penalty not exceeding five pounds, (*h*) and this enactment shall extend and be applicable to and in respect of every agreement by which any of the stipulations or conditions in any agreement entered into under this Act or any former Act shall be repealed or altered.

After Agreement for uniting is reported, Visitors to be elected for carrying same into effect.

XX. When any agreement for uniting has been entered into, signed, and reported as aforesaid, (*i*) the justices of every county to which the same relates shall, at the general or quarter sessions to which such agreement is reported, elect from among the justices of such county the number of visitors allotted to such county in the agreement; and the justices of every borough to which such agreement relates shall, at a special meeting of such justices to be holden within twenty days after such agreement has been reported to the general or quarter sessions for such borough, elect from among the justices of such borough the number of visitors allotted to such borough in the agreement; and the majority of such of the subscribers to any hospital to which such agreement relates as shall be present at a meeting of such subscribers to be holden within twenty-eight days after the signing of such agreement, and of which meeting public notice shall have been given by advertisement in some newspaper circulated in the place in which such hospital is situate

(*h*) ss. 126, 127, *post*.
(*i*) s. 14, *ante*; s. 19, *ante*.

or is intended to be situate, shall elect from among such subscribers the number of visitors allotted to the subscribers to such hospital in such agreement; and the visitors so elected as aforesaid shall together form and be the committee of visitors for carrying such agreement into effect.

Committee authorised to superintend the erection of Asylums to be deemed Committee of Visitors.

XXI. Every committee elected for any county or borough as hereinbefore provided, and authorized to superintend the erecting or providing of an asylum for such county or borough, shall, until the election of visitors or a committee of visitors for such county or borough, or the asylum thereof, under any of the provisions herein contained, be deemed the committee of visitors for such county or borough.

Visitors to be elected annually for Asylums.

XXII. At the general or quarter sessions to be held next after the twentieth day of December in every year the justices of every county, (*j*) and at a special meeting to be held within twenty days after the twentieth day of December in every year the justices of every borough, (*k*) having for the time being an asylum (whether provided before or after the passing of this Act) either for the sole use of such county or borough or under any agreement for uniting as aforesaid, (*l*) shall elect some justices of such county or borough to be visitors on behalf of such county or borough for the said asylum during the year next ensuing the election; and where such asylum has been provided under any agreement for uniting entered into with any such subscribers as aforesaid, (*l*) the majority of such of the subscribers as shall be present at a meeting to be holden in the month of January in every year, of which notice shall have been given by public advertisement in some newspaper circulated within the place in which such asylum is situate, shall elect some of such subscribers to be visitors for such asylum during the year then

(*j*) As to boroughs annexed to county, see ss. 9, 10, *ante;* and 18 & 19 Vict. c. 105, s. 7, *post.*

(*k*) As to borough council, see ss. 129, 130, *post;* and 18 & 19 Vict. c. 105, s. 6, *post.*

(*l*) s. 14, *ante.*

next ensuing; (*m*) and where such asylum is for the sole use of any one county or borough, the visitors elected for such county or borough as aforesaid shall be "the Committee of Visitors" of such asylum; and where such asylum has been provided under any agreement for uniting, the visitors elected as aforesaid on behalf of every county and borough, and the subscribers (if any) to which the asylum belongs, shall together form and be "the Committee of Visitors" of such asylum: provided always, that the number of the committee of visitors of any county or borough having an asylum for its sole use shall not be less than seven, and that in all other cases the number of visitors to be elected on behalf of every county and borough, and of any body of subscribers, to form and be the committee of visitors, shall be the number provided for in the agreement.

A separate Committee of Visitors to be appointed for every Asylum.—Proviso.

XXIII. Where any county or borough has more than one asylum, a separate committee of visitors shall be appointed as aforesaid for every such asylum, each of which committees shall have all the powers and be subject to all the provisions of this Act with regard to the asylum for which it is appointed, as if it were the only asylum for that county or borough: provided always, that it shall be lawful for the justices of the county or borough, if they think fit, with the approval of one of Her Majesty's principal Secretaries of State, to appoint the same committee for two or more such asylums.

Meetings of Visitors.—Every Committee to elect a Chairman.—Number of Members to constitute a Meeting.—Questions how to be decided.

XXIV. The several persons elected members of any committee of visitors shall within one month after their election assemble at some convenient place to be named in a notice in writing given by two or more of such visitors, or by the clerk (*n*) to the outgoing committee by the direction of two or more of the said visitors, to the several members so

(*m*) See also ss. 27 and 28, *post*.
(*n*) s. 26, *post*.

elected, such notice to be given to each member personally, or left at his place of abode, or transmitted to him through the post-office, seven days at least before the time appointed for such meeting; and the said visitors may adjourn the said meeting from time to time or from place to place, and meet where and as often as they think necessary; (*o*) and the said visitors shall at their first meeting after their election elect one of their members to be their chairman, who shall preside at all meetings at which he is present; and in case of the absence of the chairman from any meeting the members of the committee then present shall elect one of such members to be chairman for the meeting, who shall preside at the meeting; and to constitute a meeting of a committee there shall be present not less than three members thereof, except for adjournment, which may, be made by less than three; and every question shall be decided by a majority of votes (the chairman, whether permanent or temporary, having a vote), and in the event of an equality of votes on any question the chairman for the time being shall have an additional or casting vote.

Clerk, on Requisition of Chairman or Two Visitors, or of Superintendent, to call Meeting of Visitors.—Chairman may convene Meetings.

XXV. The clerk (*p*) of any committee of visitors shall, whenever required in writing by the chairman (*q*) or two of the visitors, or by the superintendent of the asylum, and the chairman (*q*) of any such committee may, whenever he shall see fit, convene a meeting of such committee by a notice in writing to each visitor of the time and place of such meeting, such notice to be delivered, left, or transmitted as aforesaid (*q*) by such clerk or chairman seven days at least before the time appointed for the meeting.

Visitors to appoint a Clerk.

XXVI. Every committee of visitors shall appoint a clerk to such visitors for the purposes of this Act, at such salary or remuneration as such visitors think fit, and may, if and when

(*o*) See also s. 25, *post*
(*p*) s. 26, *post*.
(*q*) s. 24, *ante*.

they think fit, remove any clerk appointed by them, and in any such case, or in case of the death or resignation of any such clerk shall appoint a new clerk; and the clerk to any committee of visitors of any asylum may also be the clerk of such asylum; (*r*) and any clerk to any committee of visitors shall, unless he sooner die, resign, or be removed, continue in office so long as such committee continue in office. (*s*)

Committee of Visitors to continue until first Meeting of new Committee, and in default of Election of new Committee to continue as if re-elected.

XXVII. The powers of any committee of visitors and of the members of such committee, whether appointed or elected before or after the commencement of this Act, shall continue until the first meeting of the committee by which such first-mentioned committee is to be succeeded, anything herein contained to the contrary notwithstanding; and if the justices of any county, or the justices or recorders (*t*) of any borough, or any body of subscribers, neglect in any year to make such election or appointment as required by this Act, (*t*) then the committee of visitors lastly before elected, or the members of such committee elected or appointed for such county or borough, or on behalf of such body of subscribers, or such of them as shall continue to act, shall be deemed and taken to be the committee of visitors, or to form part of the committee of visitors, as if such committee or members had been re-elected or re-appointed in such year, and so from time to time so often as the justices, recorder, (*t*) or subscribers so neglect.

Provision for supplying Vacancies in Committees.—Continuing Members may Act.

XXVIII. In case any member of any committee or any visitor, elected or appointed under this Act (*u*) or any Act hereby repealed, die, resign, or become incapable to act, the justices for the county or borough for which such member

(*r*) s. 55, *post.*

(*s*) s. 125, *post;* and s. 126, *post.*

(*t*) See s. 22, *ante;* and ss. 9, 10, *ante*, as well as 18 & 19 Vict. c. 105, s. 7, *post.* The word "recorders," in the plural, is an error; it should be "recorder."

(*u*) See s. 22, *ante;* and ss. 9, 10, *ante;* and 18 & 19 Vict. c. 105, s. 7, *post.*

or visitor was elected or appointed, at any general or quarter sessions for such county, or at a special meeting of the justices of such borough, or where such visitor was appointed by the recorder of a borough, then the recorder of such borough shall elect or appoint some other justice in his place; and where any such member or visitor has been elected on behalf of any body of subscribers the majority of such of the said subscribers as shall be present at some meeting called in manner provided with respect to the annual election of visitors (*v*) shall elect some other subscriber in his place; but, notwithstanding any vacancy in any committee, the continuing members or visitors may act as if no such vacancy had occurred.

Secretary of State may require any County or Borough not having an Asylum to provide one.

XXIX. In case at any time after the expiration of one year from the commencement of this Act it appear to one of Her Majesty's principal Secretaries of State, upon the report of the Commissioners in Lunacy, that any county or borough has not an asylum for the pauper lunatics thereof, it shall be lawful for such Secretary of State, by writing under his hand, to require the justices of such county or borough forthwith to provide a fit and sufficient asylum for so many pauper lunatics as upon the report of the said Commissioners such Secretary of State may think fit and direct, and such justices shall forthwith proceed as hereinafter mentioned to cause such asylum to be provided: (*w*) provided always, that no borough annexed to any county by virtue of this Act or any former Act, or on behalf of which a subsisting contract making adequate provision for the care of the pauper lunatics thereof shall have been entered into under this Act, or which now contributes to any asylum for the county in which it is situate, and shall not have been separated from such county, shall be required to provide an asylum under any such order.

Where Accommodation of existing Asylum is inadequate, additional Asylum to be provided, or existing Asylum enlarged.

XXX. It shall be lawful for the justices of every county

(*v*) s. 22, *ante*.

(*w*) See Eleventh Report of the Commissioners in Lunacy, 31st March 1857, p. 5.

and borough having an asylum or asylums for the pauper lunatics thereof, where it appears to such justices at any general or quarter sessions, or (in the case of a borough) at any special meeting of such justices, that the asylum or asylums of such county or borough is or are inadequate or unfit for the proper accommodation of the pauper lunatics of such county or borough, to cause an additional asylum, or a new asylum in lieu of any existing asylum of such county or borough, to be provided for such county or borough, in like manner as hereinbefore directed in the case of a county or borough not having an asylum, or to direct the committee of visitors of any existing asylum to cause the same to be enlarged or improved, (*x*) or, in any other case where the said justices deem it necessary or expedient, to direct the committee of visitors of any existing asylum to improve the same; (*x*) but it shall not be incumbent on any such committee under any such direction as aforesaid to enlarge or improve such asylum where the same does not belong to one county or borough alone, without a like direction from the justices of every county or borough to which the same belongs; and in case at any time it appear to one of Her Majesty's principal Secretaries of State, upon the report of the Commissioners in Lunacy, that any existing asylum or asylums for any county or borough is or are inadequate or unfit for the proper accommodation of the pauper lunatics thereof, it shall be lawful for such Secretary of State, by writing under his hand, to require the justices of such county or borough forthwith to cause an additional asylum, or a new asylum in lieu of any existing asylum, to be provided as aforesaid for such county or borough, or the committee or committees of visitors of any existing asylum or asylums forthwith to enlarge or improve the same, in such manner as the said Secretary of State may see fit and direct, and the said Secretary of State may require accommodation to be provided in and by such additional or new asylum, or by means of the enlargement of such existing asylum or asylums, for so many pauper lunatics as upon the report of the said Commissioners such Secretary of State may think fit and direct; and the said justices or committee or committees shall forthwith carry such requisition of the said Secretary of State into effect; and the powers and provisions in

(*x*) See also s. 38, *post*.

this enactment contained with respect to the enlargement and improvement of asylums shall extend and be applicable to and for the enlargement and improvement of the offices, outbuildings, yards, courts, outlets, ground, land and appurtenances belonging thereto.

When an Asylum or additional Asylum or Accommodation is required, the Visitors to procure and determine on Plans and Estimates, and to contract for the purchase of Land and Buildings, and for erecting, &c., the necessary Buildings. —Contractors to give Security.—Contracts and Orders to be entered in a Book, to be deposited, and to be open to inspection.—Visitors to report.

XXXI. It shall be lawful for any committee of visitors having authority to provide an asylum for pauper lunatics (but subject as hereinafter mentioned) to procure, examine, and determine on plans (*y*) for the same, and estimates, and contract (*y*) for the purchase of lands and buildings (and in the case of buildings, either with or without any fittings-up and furniture belonging thereto), and for building, erecting, altering, improving, restoring, furnishing, and completing, or otherwise providing such asylum, and rendering the same in all respects fit and ready for the reception of lunatics, and for making, laying out and completing the offices, outbuildings, yards, courts, outlets, grounds, land, and appurtenances of or for such asylum, and for providing clothing for patients, and everything necessary for the opening of any such asylum; and any committee of visitors having authority to enlarge, alter, or improve any asylum shall have like powers for the purpose of enlarging, altering, or improving such asylum, or the offices, outbuildings, yards, courts, outlets, grounds, land, and appurtenances thereto belonging; and every person contracting for building or doing any other such work as aforesaid shall give to the clerk of such visitors sufficient security for the due performance of the contract; and every such contract, either for purchase of lands or buildings, or for doing any such work as aforesaid, and all orders relating thereto, shall be entered in a book to be kept by the clerk to such visitors; and when such asylum and appurtenances, or (as the case may be) the additions to

(*y*) See s. 45, *post;* and 25 & 26 Vict. c. 111, s. 5, *post.*

or alterations or improvements thereof, are completed, such book shall be deposited and kept among the records of the county or borough, or where more than one county or borough is interested in such contract by reason of an agreement for union, (*z*) then among the records of the county or borough which has contributed the largest proportion of the expenses of such contract; and every such book may be inspected at all reasonable times by any person contributing to the rates of the county or borough, or, in the case of a union, (*z*) to the rates of any of the counties or boroughs, and also, if any part of such expenses has been paid by voluntary subscriptions, by any such voluntary subscribers; and a copy of every such book shall be kept at the asylum to which the contract relates; provided always, (*a*) that the said visitors shall from time to time make their report to the general or quarter sessions of the county or borough, counties or boroughs, for which they, or such of them as have not been elected by subscribers as aforesaid, have been elected, of the several plans, estimates, and contracts which have been agreed upon, and of the sum or sums of money necessary to be raised and levied for defraying the purchase monies and expenses thereof on the county or borough, or, in the case of such union as aforesaid, on each or every of the counties or boroughs; which plans, estimates, and contracts shall be subject to the approbation of the court or courts of general or quarter sessions of such county or counties, and of the justices of such borough or boroughs, before the same are completed or carried into execution, save where the amount to be expended does not exceed an amount previously fixed by the court or courts of general or quarter sessions of such county or counties, or by the justices of such borough or boroughs. (*b*)

Powers to Visitors to purchase in consideration of a Rent reserved.

XXXII. It shall be lawful for any committee of visitors to purchase and take a conveyance for the purposes of this

(*z*) See note to s. 39, *post*.
(*a*) 25 & 26 Vict. c. 111, s. 4, *post*.
(*b*) *Moffat* v. *Dickson*, 13 C. B. 543; *Kendal* v. *King*, 17 C. B. 483; *Devenish* v. *Brown*, 26 L. J. R. (N.S.) ch. 23.

Act from any person having absolute power to sell and convey, independently of this Act, any lands or buildings, in consideration of a yearly rentcharge or annual sum to be limited to such person, his heirs and assigns, or as he or they shall direct, out of the lands or buildings to be purchased, and the same shall accordingly be conveyed as aforesaid, subject thereto, and to powers of distress and entry for securing the same.

Power for Visitors to take a Lease for Rent.

XXXIII. It shall be lawful for any committee of visitors, instead of purchasing any land or buildings which they are hereby authorised to purchase, to take a lease thereof for any absolute term of not less than sixty years, at such annual rent and under such covenants as the said committee of visitors think fit; and it shall also be lawful for such committee to rent any land by the year for the purpose of employing such of the inmates of the asylum as may be fit for such employment, or otherwise for the occupation and use of the patients. (*c*)

Asylum may be Erected beyond the Limits of any County, or Borough, and Justices of such County or Borough may notwithstanding act therein.

XXXIV. The asylum to be provided for any county or borough, either solely or jointly, may be without the limits of such county or borough, and when any asylum provided or to be provided solely or in part for any county or borough, or any part of such asylum, is situate within the limits of any other county or borough, then and in every such case the justices of the county or borough to which such asylum wholly or partly belongs shall have full power and authority to act in such other county or borough, so far as concerns the regulation of such asylum, and the powers conferred by this Act, in the like manner as if such asylum and every part thereof were situate within such first-mentioned county or borough.

Assessment to local Rates not to be increased after Purchases for the Purposes of this or any former Act.

XXXV. No lands or buildings already or to be hereafter

(*c*) 25 & 26 Vict. c. 111, s. 11, *post.*

purchased or acquired, under the provisions of any former Act or this Act, for the purposes of any asylum (with or without any additional building erected or to be erected thereon), shall while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same were assessed at the time of such purchase or acquisition. (*d*)

(*d*) This enactment assumes or implies that county and borough asylums are liable to be assessed to the local taxes; and merely places a limit to the amount of assessment. Neither St. Luke's Hospital, which was held not to be ratable (*R.* v. *St. Luke's Hospital*, 2 Burr. 1053, 1 W. Bl. 249), nor the Retreat at York, which was held to be ratable (*R.* v. *St. Giles, York*, 3 B. & Ad. 573), is precisely in point, neither of those establishments being a county or borough asylum. The ratability of such asylums would probably be determined by the same principles upon which union workhouses have been held to be ratable (*The Guardians of the Poor of Bristol* v. *Wait*, 5 A. & E. 1; *Reg.* v. *The Guardians of the Wallingford Union*, 8 L. J. R. (N.S.) M. C. 89); although the police stations of the county constabulary are exempt (*Stretford* v. *JJ. of Lancashire*, 1 E. B. & E. 225). See also the decision of the House of Lords in *Jones* v. *Mersey Docks and Harbour Board*, and *Mersey Docks and Harbour Board* v. *Cameron*, 35 L. J. R. (N.S.) M. C. 1; 12 L. T. (N.S.) 643. All necessary and proper accommodation for the officers who are required to reside in the asylum is included in the limited assessment. Thus, the house and garden assigned to the superintendent is so included, because he is required by the statute (see s. 55, *post*) to be resident in the asylum; but a house assigned to the chaplain will be ratable in the ordinary manner, because he is not required by the statute to be so resident (*Rev. R. Congreve and Another* v. *Overseers of Upton*, 9 L. T. (N.S.) 684; 33 L. J. R. (N.S.) M. C. 83; 4 B. & S. 857). With regard to the nature and extent of the accommodation to be allowed to the resident officers, see the remarks of Blackburn, J., in the case just cited; and for decisions in analogous cases, see *Gambier* v. *Lydford*, 3 E. & B. 346; and *Reg.* v. *Stewart*, *Reg.* v. *Edwards*, *Reg.* v. *Lake*, *Reg.* v. *Stainsby*, *Reg.* v. *Breton*, and *Reg.* v. *Foster*, 8 E. & B. 360; 4 Jur. (N.S.) 187, 190; 27 L. J. R. (N.S.) M. C. 81; 30 L. T. 114. With regard to the income tax, the Act 5 & 6 Vict. c. 35, s. 62 (referring to schedule A, No. vi.) provides for certain allowances in respect of hospitals, but does not mention lunatic asylums. In *Cambs. Lunatic Asylum* v. *Fulbourn*, (11 Jur. (N.S.) 620; 34 L. J. R. (N.S.) M. C. 106; 12 L. T. (N.S.) 344; 6 B. & S. 451) it was held that the limitation of the assessment under section 35 will apply, although paupers from other counties and lunatics not paupers may be received into the asylum under sections 42 and 43, and although a profit may be realised by the sale of the produce of the land, in the cultivation of which the lunatics may be employed, not for the purposes of profit, but with a view to their healthful occupation.

Certain Provisions of 8 & 9 Vict. c. 18, incorporated, and extended to authorise Exchanges.

XXXVI. The provisions of "The Lands Clauses Consolidation Act, 1845," "with respect to the purchase of lands by agreement," "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title," and all other provisions of the said Act applicable to and in the case of the purchase of lands by agreement, shall be incorporated with this Act; and all parties by the said provisions empowered to sell any lands may give lands in exchange for the purposes of this Act for other lands, and enter into all necessary agreements for that purpose, and on any such exchange money may be paid by either party by way of equality of exchange, and the said provisions "with respect to purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title," shall apply to any money coming to any such parties on any such exchange; and any lands to be purchased or taken in exchange for the purposes of this Act shall be conveyed to such persons, being not less than five in number, and in such manner as the committee of visitors purchasing the same or taking the same in exchange may direct, in trust for the purposes of this Act; and any conveyance to be so made shall have the like force and effect as a conveyance made under section eighty-one of the said Lands Clauses Consolidation Act. (*e*)

Provision for the appointment of new Trustees of Land purchased or acquired for Asylum.

XXXVII. When and so often as any land purchased or acquired under this Act or any former Act, for the purposes of an asylum, shall be vested in less than three trustees, or there shall not be any trustee thereof living, it shall be lawful for the committee of visitors of such asylum, or any three or more of them, by an instrument in writing under the hands of such visitors or any three or more of them, to appoint such number of new trustees of such land as such visitors

(*e*) *Devenish* v. *Brown*, 26 L. J. R. (N.S.) ch. 23. See also 25 & 26 Vict. c. 111, s. 10, *post*. As to conveyance to the clerk of the peace, see 34 & 35 Vict. c. 14, s. 2, *post*.

may think fit; and such appointment shall be deposited and kept among the records of the county or borough, or where more than one county or borough is interested in such land, then among the records of the county or borough having the largest interest therein; and all the estate and interest in such land which at the time of such appointment may be vested in any trustee or trustees, in trust for the purposes aforesaid, or in any other person, as heir or devisee, or otherwise, subject to such trust, shall by virtue of such appointment vest in the trustees so appointed, either alone, or if there be any continuing trustees or trustee jointly with such continuing trustees or trustee, as the case may require, without any conveyance or assignment for that purpose.

Visitors to order all ordinary Repairs to Asylums, provided they do not exceed £400 per annum. (f)—As to Payment of Expenses of Repairs, etc.—No Order for payment of Money exceeding £100 to be made unless Notice has been given of the Meeting at which the same shall be ordered.

XXXVIII. The committee of visitors of every asylum may of their own authority from time to time order all such ordinary repairs as may be necessary for such asylum, and any additions, alterations, or improvements to or in such asylum, or the offices, outbuildings, yards, courts, outlets, grounds, land, and appurtenances thereto belonging, which to them may seem necessary or proper (*g*) for the further or better accommodation of the pauper lunatics who may be received or taken care of therein, provided that the expense of all such additions, alterations, and improvements shall not exceed four hundred pounds in any one year; (*f*) and if

(*f*) It will be observed that the marginal note in this, as in so many other instances throughout the Lunacy Acts, is misleading. This enactment places no limit to the expense of the "ordinary repairs;" the limitation of "£400 in any one year" being confined to the "additions, alterations, and improvements," which the committee are empowered to order, but which they are also required, by the last proviso to the same section, to report to the quarter sessions. Where, however, the expense in any case, whether of ordinary repairs, or of additions, alterations, and improvements, exceeds the sum of £100, special notice must be given, and at least three visitors must concur. Where the cost of the contemplated "additions, alterations, or improvements" will exceed £400, resort must be had to the provisions of s. 30, *ante*.

(*g*) As to the duty of the committee of visitors to prevent nuisance from discharge of asylum sewage on adjoining lands, see *Attorney-*

such asylum belong to one county or borough only, they shall cause the expense of such repairs, additions, alterations, or improvements to be paid by making an order upon the treasurer of such county or borough for the payment thereof, but if otherwise they shall apportion such expense in the proportion in which each county or borough has contributed to the erection thereof, or where any other proportion is fixed by an agreement for the time being in force, then in such other proportion, and where any such agreement only provides in what proportion the expense of repairs shall be defrayed, the said committee shall apportion the expense of such additions, alterations, and improvements in the same proportion unless it be otherwise provided by such agreement, and the said committee shall make an order on the treasurer of each county or borough for the payment of the proportion to be paid by such county or borough, and such treasurer shall pay the same accordingly out of any money of such county or borough then in his hands, or which may thereafter come to his hands, not specifically appropriated to any other purpose, and the same may be recovered from him, for the benefit of such asylum, by the treasurer or clerk thereof, together with all costs and expenses, in any of Her Majesty's Courts at Westminster, or in any other Court of competent jurisdiction: provided always, nevertheless, that no order for any such repairs, additions, alterations, or improvements as aforesaid, or for the payment of any money for the expenses thereof, where such expenses exceed the sum of one hundred pounds, shall be made, unless notice of the meeting at which the same shall be ordered, and of the intention to determine thereat the question of such expenditure, have been given in such manner and so long before the time appointed for the meeting as is hereinbefore provided (*h*) with respect to notices of meetings of committees of visitors, nor unless three visitors concur in and sign such order: provided also, that where any such expenditure as aforesaid is incurred otherwise than for ordinary repairs, the visitors shall report the same to the next general or quarter sessions

General v. *Committee of Visitors of County Lunatic Asylum at Colney Hatch*, L. R. 4, ch. 147; 38 L. J. R. (N.S.) ch. 265; 19 L. T. (N.S.) 44 and 708. As to nuisances in connection with the asylum, see the Public Health Act, 38 & 39 Vict. c. 55.

(*h*) ss. 24, 25, *ante*.

of the county or borough, or each county and borough, on behalf of which such expenditure has been incurred.

Power of Visitors, with consent of Secretary of State, to dissolve Unions.

XXXIX. It shall be lawful for every committee of visitors, with the consent of one of Her Majesty's principal Secretaries of State under his hand, to determine and dissolve any union, (*i*) whether such union have been formed under this Act or under any former Act, and upon such dissolution to divide and allot the lands, buildings, hereditaments, chattels, monies, and effects of or belonging to such union between or among every such county and borough, and the subscribers (if any) between which and whom such union existed, in the proportions in which they respectively have contributed thereto or are interested therein, or in such other proportions and manner as the said visitors, with the approbation of the said Secretary of State, think fit; and if on any such division or allotment there cannot be conveniently allotted to any county or borough or subscribers the proper proportion of such county, borough, or subscribers in the lands, buildings, hereditaments, chattels, monies, and effects of such union, there shall be paid to such county, borough, or subscribers such sum of money as the said visitors, with the approbation of the said Secretary of State, may direct, in full or in part satisfaction, as the case may require, of the aforesaid proportion of such county, borough, or subscribers; and every such sum of money shall be raised by the county or counties, borough or boroughs, to or between or among which the lands, buildings, hereditaments, monies, chattels, and effects of the said union shall be allotted (if more than one) in such shares as the said visitors, with the approbation of the said Secretary of State, think fit, in the same manner and by the same means as other monies are appointed to be raised by counties or boroughs for the purposes of this Act: provided always, that no union shall be so dissolved by any committee of visitors except under a resolution of such com-

(*i*) 18 & 19 Vict. c. 105, s. 5, *post*. The "union" here referred to is a union of counties and boroughs and hospitals, or any of them, for providing any asylum; and is therefore not a union within the meaning of that term as defined by the Interpretation Clause, s. 132, *post*.

mittee at a meeting specially convened for the purpose of determining the question of such dissolution by a notice given in such manner and so long before the time appointed for such meeting, as is hereinbefore provided (*j*) with respect to notices of meetings of committees of visitors, nor unless the majority of the whole number of the committee of visitors shall at such meeting have concurred in such resolution: provided always, that in the case of a dissolution of union, where any county or borough having an asylum shall be united with any county or counties, borough or boroughs, not having an asylum, and have erected additional buildings and incurred any other expense for their benefit, and be in receipt of an annual fixed sum or rent as a remuneration for the expenses so incurred in lieu of the payment of a sum in gross, it shall be lawful for the said county or counties, borough or boroughs, so paying such rent, if they shall think fit, to raise, in the same manner as is provided in the Act for the purpose of erecting county asylums, such a sum of money for the purpose of compensating the county or borough receiving such rent for the cessation of such rent as may be agreed upon and approved of by the committee of visitors of such county or counties, borough or boroughs, as may have been so united as aforesaid.

Power for Visitors, with consent of Secretary of State, to sell or exchange Lands and Buildings.—Application of Purchase Monies.

XL. It shall be lawful for every committee of visitors, with the previous consent of one of Her Majesty's principal Secretaries of State under his hand, to sell, either by public auction or private contract, and subject to any conditions, any lands or buildings or parts of lands or buildings which may have belonged to and been used as or together with an asylum, or which may have been purchased or otherwise acquired under any former Act or this Act, for the purposes of an asylum, and found unsuitable or otherwise not required for such purposes, or to give the same in exchange for other lands or buildings, and to pay or receive through the treasurer of such asylum any money by way of equality of exchange; and every conveyance of lands or buildings so sold

(*j*) ss. 24, 25, *ante*.

or given in exchange which shall be executed by the persons in whom the same may then be vested as trustees, or by any three of the members of the committee of visitors who sell the same, shall be effectual to convey the same for all the estate or interest then vested in such trustees, in trust for the purposes of such asylum, and the receipt of any three of the committee of visitors shall be a sufficient discharge for the purchase monies or for any monies to be received for equality of exchange; and such monies, in case the sale or exchange be made by a committee of visitors of any one county or borough alone, shall be applied in carrying into execution the powers and purposes of this Act, or shall be paid to the treasurer of such county or borough, and be applied for the general purposes thereof, or otherwise, as the justices of such county or borough shall, at some general or quarter sessions for such county, or at some special meeting of the justices of such borough, direct; and in every other case the monies received shall be paid to the treasurer of the county, borough, or subscribers to which or to whom the property sold or exchanged belonged, in case it belonged to any one of them, or if the same was joint property then to the respective treasurers of every county and borough, and of the subscribers, if any, in the proportion in which such county, borough, and subscribers were respectively interested therein; and such monies shall be held and applied by every such treasurer, in the case of a county or borough, as part of the general rates or funds of such county or borough, and in the case of any subscribers, as the majority of such of the subscribers as shall be present at any meeting convened for that purpose shall direct.

Visitors may, with consent of Secretary of State, get released from Contracts.

XLI. Where any committee of visitors have (either before or after the passing of this Act) contracted for the purchase of any lands for the purposes of an asylum, or for any exchange of any lands for other lands for such purposes, and the lands so contracted to be purchased or taken in exchange are found to be unsuitable or are not required for such purposes, such committee, or any other committee appointed in their place may, with the consent in writing of one of Her Majesty's principal Secretaries of State (notwithstanding such

contract may have been approved as required by the said Acts hereby repealed or this Act), procure a release from the said contract, and in consideration of such sum of money (if any) as the said committee, with such consent as aforesaid, may agree to pay; and the said committee or any three of such committee may, in consideration of such release, execute a release to the other party to such contract or other the persons bound thereby; and the consideration money (if any) by the said committee agreed to be paid as aforesaid, and all expenses in relation to the said contract and releases, shall be paid, defrayed, and raised in like manner as if the same were payable in respect of the purchase of lands for the purposes aforesaid.

Visitors empowered to contract for the reception of Pauper Lunatics into Asylums of other Counties or Hospitals or Licenced Houses.—Period of such Contract limited.—As to Money payable under Contract for reception of Lunatics into any Asylum.

XLII. It shall be lawful for every committee of visitors to contract with the committee of visitors of any asylum, or with the subscribers to any hospital registered or the proprietor of any house licenced for the reception of lunatics, for the reception into such asylum, hospital, or house of the whole or of a portion of the pauper lunatics of the county or counties, borough or boroughs, or counties and boroughs, or any of them respectively, for which such first-mentioned committee is acting, or for the use and occupation of all or any part of such registered hospital or licenced house, at such sum, either in gross or by way of annual or other periodical payment or rent, and under and subject to such terms, stipulations, and conditions, as such visitors shall think fit; (*k*) and it shall be lawful for the committee of visitors of any asylum, or the subscribers to any registered hospital, or the proprietor of any licenced house, to contract with any committee of visitors accordingly: provided always, that no such contract shall be made for any longer period than for the term of five years, (*l*) and that any such contract may be determined by notice in writing under the hand of one of Her

(*k*) See s. 45, *post*.
(*l*) 18 & 19 Vict. c. 105, s. 10, *post*.

Majesty's principal Secretaries of State, and that every such contract with the proprietor of a licenced house shall determine on such house ceasing to be duly licenced for the reception of lunatics; provided also, that no such contract shall exempt the justices of any county or borough or any committee from the immediate duty and obligation of erecting or providing, or uniting in erecting or providing an asylum or additional asylum, or of enlarging or improving any asylum, as required by this Act, where one of Her Majesty's principal Secretaries of State has caused notice to be given as aforesaid for the determination of such contract, although the term for which such contract was entered into has not expired by effluxion of time: provided also, that any money which may be payable under such contract for the reception of the lunatics of any county or borough into any asylum beyond the weekly sums which may be charged under this Act, (*m*) for the lodging, maintenance, medicine, clothing, and care of lunatics in the asylum belonging to the county or borough to which such lunatics shall belong, shall be paid, defrayed, and raised by such county or borough out of any monies in the hands of the treasurer for the county (*n*) which shall be applicable for the repairs or other ordinary expenses of such asylum; (*o*) provided also, that any hospital or licenced house with the subscribers or proprietor of which any such committee so contract as aforesaid shall be subject to the visitation of any of the members of such committee for the time being.

When any Asylum can accommodate more than the Lunatics of the County or Borough, Visitors may order the admission of other Lunatics.

XLIII. Whenever it appears to the committee of visitors of any asylum that such an asylum is more than sufficient for the accommodation of all the pauper lunatics of the county or borough or each county and borough to which the same wholly or in part belongs, and of any county or counties, borough or boroughs with which any existing contract for the reception of all or any of the pauper lunatics

(*m*) See s. 54, *post*; and also 25 & 26 Vict. c. 111, s. 6, *post*.
(*n*) The words "or borough" seem to have been inadvertently omitted here (?)
(*o*) 25 & 26 Vict. c. 111, s. 7, *post*.

thereof in such asylum has been entered into, (*p*) or which shall otherwise contribute to such asylum, it shall be lawful for the committee of visitors, if they think fit, to give notice thereof by advertisement in some newspaper commonly circulated in such county or borough, or every such county or borough as aforesaid, and (subject nevertheless and without prejudice to any agreement with any voluntary subscribers), by a resolution of the said committee, to permit the admission of so many pauper lunatics of any other county or borough, and (if such committee think fit) lunatics not paupers, but who, in the opinion of such committee, may be proper objects to be admitted into a public asylum, (*q*) as to such committee may seem expedient, and at any time to rescind or vary any such resolution; and such committee may if they think fit, by such resolution require that no pauper lunatic shall be admitted into such asylum thereunder without an undertaking by the minute of the guardians of the union or parish, or signed by two of the overseers of the parish, to which such lunatic is chargeable, (*r*) or in the case of a lunatic not a pauper, by the person signing the order for the admission of such lunatic, (*s*) for the due payment of the weekly charge for the lodging, maintenance, medicine, clothing, and care of such lunatic during his continuance in the asylum, and of the expenses of his burial (*t*) in case he die therein, as well as for the removal of such lunatic from such asylum within six days after due notice given in writing by the superintendent of such asylum; and such lunatic not being a pauper shall have the same accommodation in all respects as the pauper lunatics.

No Visitor to have any Interest in any Contract or Agreement.

XLIV. No visitor of any asylum shall have or take, or be capable of having or taking, any interest or concern whatsoever, either in his own name or in the name of any other person, in any contract or agreement to be made under the

(*p*) s. 7, *ante*; s. 42, *ante*.
(*q*) See Introduction, *ante*, pp. 78-80; and the various enactments in the statutes there referred to.
(*r*) ss. 95-102, *post*; 24 & 25 Vict. c. 55, s. 6, *post*.
(*s*) See s. 74, *post*; and schedule F, No. 2, *post*.
(*t*) See s. 120, *post*; and the notes thereon.

authority of this Act, or in anywise relating to or connected with such asylum, or shall, for any design or plan he may deliver or produce, receive any benefit or emolument whatever, or otherwise have or take any benefit or emolument whatsoever from or out of the funds of the asylum: provided always, that this enactment shall not extend to any such interest, benefit, or emolument which any visitor may have or derive by reason of his being a shareholder of any joint-stock company established by Act of Parliament or by charter, with which any contract may be entered into on behalf of such asylum, or which may otherwise receive any benefit or emolument out of the funds of the asylum: provided that no contract or dealing between such company and the visitors of such asylum be at or upon rates or terms more advantageous to the company than in the case of contracts or dealings by such company with other parties.

Plans, etc., to be submitted to Commissioners in Lunacy and approved by the Secretary of State.

XLV. Every committee of justices or visitors shall submit all agreements for uniting for the purposes of this Act,(*u*) and all contracts under this Act, (*v*) for the reception of the pauper lunatics of any county or borough, or any of them, into any asylum, registered hospital, or licenced house, or for the use and occupation of all or any part of any such hospital or licenced house, and all plans, (*w*) for building, or providing or enlarging or improving any asylum for pauper lunatics, and all contracts (*w*) for purchases of lands or buildings for any such purpose, to the Commissioners in Lunacy, who shall make such inquiries in reference thereto, and to the amount of the accommodation requiring to be provided, as they may deem proper, and shall report thereon in writing to one of Her Majesty's principal Secretaries of State, and such committee shall submit to one of such Secretaries of State estimates of the cost and expense of carrying into execution such plans, and no such agreement, contract, or plan shall be carried into effect until the same has been approved by such Secretary of State in writing under his hand.

(*u*) s. 14, *ante.*
(*v*) s. 7, *ante;* s. 42, *ante.*
(*w*) s. 31, *ante;* 25 & 26 Vict. c. 111, s. 5, *post.*

How Monies to be raised for providing Asylums.

Provisions for raising Monies required for the purposes of this Act by County and Borough Rates.

XLVI. In order to pay and defray the monies, costs, and expenses payable for any of the purposes of this Act, (*x*) or the said Acts hereby repealed, by any county, the justices of such county at any general or quarter sessions for the same may and shall assess and tax a general county rate or rates upon such county, and may and shall fix a sum or rate to be contributed by all places whatsoever within such county (*y*) (other than any borough being within such county or by this Act for the purposes thereof annexed thereto), (*y*) and whether such places be or be not liable to contribute to an ordinary county rate; (*y*) and in order to pay and defray the monies, costs, and expenses payable as aforesaid by any borough, (*y*) the council of such borough may and shall assess a general borough rate in the nature of a county rate upon such borough, and the said rates shall be collected, levied, and recovered in the same manner, and by the same powers, authorities, ways, and means, and under the same penalties, as any ordinary rate for such county or borough respectively may by law be collected, levied, and recovered; and the monies, costs, and expenses to be paid and contributed by any county or borough for the purposes of this Act shall be paid by the treasurer of such county or borough out of the rates aforesaid, to the treasurer of the asylum to which such county or borough shall either alone or jointly pay or contribute: provided always, that it shall be lawful for the council of any borough, if they think fit, to direct that any monies payable for the purposes of this Act, or any part thereof, shall be paid out of the borough fund of such borough, and such monies shall be paid by the treasurer of such borough out of such fund accordingly.

Power for Justices of Counties and Councils of Boroughs to raise Money by Mortgage of the Rates.

XLVII. It shall be lawful for the justices of every county in general or quarter sessions assembled, or the major part

(*x*) 25 & 26 Vict. c. 111, s. 9, *post.*

(*y*) See s. 9, *ante*; s. 10, *ante*; and s. 131, *post*; and as to the meaning of the words "county" and "borough," see s. 132, *post.* See also 18 & 19 Vict. c. 105, s. 7, *post.*

of them, such major part not being less than five, and for the council of every borough, from time to time to borrow and take up on mortgage of the rates (*z*) to be made under this Act for such county or borough, or on mortgage of such rates, (*z*) together with all other rates or funds, or any of them, of the same county or borough, all or any of the monies required for paying and defraying any such monies, costs, and expenses, as aforesaid, (*z*) payable by such county or borough; and such money may be so raised at any rate of interest not exceeding five pounds per centum per annum, and every such mortgage may be made by an instrument in the form contained in the schedule B hereunto annexed, or to that or the like effect, and shall be executed in the case of a county by the chairman, and two or more other justices present at the time of making such mortgage, and in the case of a borough by affixing the common seal of the borough thereto; and every such mortgage shall be effectual for securing to the person advancing the sum of money in such mortgage expressed to be advanced, his executors, administrators, and assigns, the repayment thereof, with interest for the same, after such rate and at such time and in such manner as in such mortgage provided; and the said mortgages shall be numbered in the order of succession in which they are granted; and copies or extracts of all such mortgages shall be kept by the clerk of the peace, or other proper officer having the custody of the records of the quarter sessions of such county or of the records of such borough, as the case may be; and every person to whom any such mortgage has been made under the Act (*a*) hereby repealed or any former Act, or is made under this Act, his executors or administrators, is (*b*) hereby empowered, by endorsing his or their name or names on such mortgage, to transfer the same, and his and their right to the principal money and interest thereby secured, unto every person, and every assignee under this Act or any former Act of any such mortgage, his executors and administrators, may in like manner transfer the same again, and so *toties quoties;* and the persons to whom such mortgages or such transfer

(*z*) s. 46, *ante*.

(*a*) There are three Acts repealed by the present Act (see s. 1, *ante*); but apparently the 8 & 9 Vict. c. 126, is the one especially referred to, unless "Act" be a misprint for "Acts."

(*b*) The words "and are" seem to have been inadvertently omitted.

thereof are made, their executors and administrators, shall be creditors upon the rates and funds thereby expressed to be mortgaged in an equal degree one with another, and shall not have any preference or priority other than is provided under the powers of this Act. (*c*)

Power to Public Works Loan Commissioners to lend Money for Purposes of this Act.

XLVIII. It shall be lawful for the justices and council of any county and borough respectively to make application for any advance of any sum necessary for the purposes of this Act, or the said Acts hereby repealed, to the Commissioners acting in the execution of an Act of the session holden in the fourteenth and fifteenth years of Her Majesty, chapter twenty-three, "to authorise for a further period the Advance of Money out of the Consolidated Fund to a limited amount for carrying on Public Works and Fisheries, and Employment of the Poor," and any Act or Acts amending or continuing the same, and the said Commissioners are hereby empowered, if they think fit, to make such advance upon the security of such mortgage as aforesaid.

Provision for the Payment of the Interest on the Mortgages, and of a portion of the Principal in each Year.

XLIX. The said justices or council, as the case may be, shall in every year charge the rates or funds of such county or borough with the sum for the time being required to pay the interest on money borrowed on any mortgages under this Act, or any former Act, or such of them as for the time being remain unpaid, and also with the payment of a further sum, not less than one-thirtieth part of the whole of such mortgages at the time of the same being first made, and such sums shall be applied under the direction of the said justices or council in discharge of the interest on the said mortgages or such of them as for the time being remain unpaid, and of so many of the principal sums owing on the said mortgages for the time being remaining unpaid, as such sums after payment of the interest as aforesaid will extend to discharge, until the whole of the principal monies for which such mortgages shall have been made, and the interest thereof, shall be fully paid and discharged; and the said justices and council, as the case may be, are and is hereby

(*c*) s. 49, *post*.

required to fix one or more days in each year on which such payment shall be made, and shall make orders for assessments in due time, so as to provide for such payments being regularly made; and the said justices or council, as the case may be, shall by agreement with the parties, or others advancing any money for the purposes of this Act, determine the order or priority in which the several sums advanced shall be respectively discharged; (*d*) and the justices of every county and the council of every borough so borrowing money on mortgage as aforesaid are and is hereby required to appoint a proper person to keep an exact and regular account of all receipts and payments in respect of principal monies borrowed or taken up as aforesaid under this Act or any former Act, and the interest thereof, in a book or books separate and apart from all other accounts, and the said book and books duly adjusted and settled up to the time being, to deliver annually, in the case of a county into court at some general or quarter sessions for such county, and in the case of a borough to the council of the borough, at such time as such council shall appoint; and the justices for every such county at such sessions, and the council for every such borough, are and is hereby required carefully to inspect all such accounts, and to make such orders for carrying the several purposes aforesaid into execution as to them shall seem meet.

Provision to be made for paying Money borrowed within a limited Time not exceeding Thirty Years.

L. Provided always, that the justices of every county and the council of every borough borrowing money as aforesaid shall make provision by means of the rates which they are hereby respectively authorised to make, and by the orders and directions which they are hereby authorised to give, that the whole principal money to be borrowed under the authority of this Act by such county or borough, and all interest for the same, shall be fully paid and discharged within a time to be limited by such justices or council, not exceeding thirty years from the time of borrowing the same.

Persons lending Money on Mortgage of Rates, etc., not bound to give Proof that Notices have been given, etc.

LI. No person lending money to any justices of any

(*d*) See s. 47, *ante*.

county or the council of any borough, and taking a mortgage for securing repayment of the same, executed in manner directed by this Act, and purporting to be made under the authority of this Act, shall be bound to require proof that the several provisions of this Act or of any former Act or Acts have been duly complied with; and if there be an order of the justices of any county in general or quarter sessions, or of the council of any borough making application for the loan, and any mortgage have been thereupon duly executed, either before or after the passing of this Act, as by any Act then in force or this Act is provided, the justices or council (as the case may be) shall have and be deemed to have had full power to levy the rates so mortgaged for repayment of the money so borrowed, with interest, notwithstanding that the provisions of this Act or any former Act or Acts may not have been complied with; and it shall not be competent to any ratepayer or other person to question the validity of any such rate or mortgage on the ground that such provisions had not been complied with.

Power to raise Money to pay off Sums already borrowed.

LII. Provided also, that in every case in which any monies have been borrowed under the powers of any former Act or this Act, it shall be lawful for the justices of the county or council of the borough for which such monies shall have been borrowed, (with the consent of the parties to whom the same shall be owing,) to pay off the monies so borrowed, and to raise and borrow the monies necessary for that purpose, and also to repay the said last-mentioned monies and the interest thereof, under the powers of this Act, as if such monies were borrowed under the powers hereinbefore contained; but so, nevertheless, that all monies borrowed shall be discharged within thirty years from the time of first borrowing the same.

REGULATION AND MANAGEMENT OF ASYLUMS AND APPOINTMENT OF OFFICERS.

Visitors to submit general Rules to the Secretary of State, and, subject to such general Rules, to make Regulations and determine Diet of Lunatics.

LIII. Every committee of visitors shall, within twelve

months after the passing of this Act, in the case of every asylum already established, and general rules for the government whereof have not been already submitted to one of Her Majesty's principal Secretaries of State, and within twelve months after the completion of every asylum hereafter established, submit the existing general rules, or general rules to be prepared by such committee, for the government of the asylum under their superintendence to one of Her Majesty's principal Secretaries of State for his approval; (*e*) and such rules, when approved by him, shall be printed, abided by, and observed; and every such committee shall have power, with the like approbation, to alter and vary such rules from time to time as they think necessary; and every such committee shall make from time to time such regulations and orders as they think fit, not inconsistent with the general rules for the time being in force for the management and conduct of the asylum, and in such regulations there shall be set forth the number and description of officers and servants to be kept, the duties to be required of them, and the salaries to be paid to them respectively; (*f*) and every such committee shall from time to time determine the diet of the patients; (*g*) and in and by such regulations such committee may direct that any number of beds in such asylum, and in such respective parts thereof as such committee may think fit, shall be always reserved for such cases as in and by such regulations shall be in this behalf mentioned; and in such case such asylum shall for the purposes of this Act, (*h*) as respects the admission of all cases not within the description or class for which such beds are reserved, be deemed full when there are no vacant beds in such asylum, except those so reserved, but nevertheless it shall be in the power of the committee of visitors of such asylum for the time being to fill the beds so reserved as they may deem expedient; and any such committee may, if they see fit, by any such regula-

(*e*) See "Further Report of the Commissioners in Lunacy," 1847, pp. 46–49, and Appendix F, p. 329; also Seventh Annual Report, 1852, p. 6, and Appendix C, p. 113.

(*f*) s. 55, *post.*

(*g*) See also 8 & 9 Vict. c. 100, s. 110, *ante*, and Eighth Report of the Commissioners in Lunacy, 1854, p. 18, and Appendix E, p. 77.

(*h*) See s. 72, *post.*

tions or order, exclude from admission into the asylum persons afflicted with any disease or malady which such committee may deem contagious or infectious, and persons coming from any district or place in which any such disease or malady may be prevalent. (*i*)

Visitors to fix weekly rate to be paid for Maintenance of each Lunatic, not to exceed 14*s. per Week.—If the Rate be found insufficient, Justices in Quarter Sessions may increase it.*

LIV. Every committee of visitors shall fix a weekly sum to be charged for the lodging, maintenance, medicine, clothing, and care of each pauper lunatic confined in such asylum, of such amount that the same may be sufficient to defray (*j*) the whole expense of the lodging, (*j*) maintenance, care, medicine, and clothing, and other expenses requisite for each pauper lunatic, and that the total amount of such weekly sums, after defraying such expenses, may also be sufficient to pay the salaries of the officers and attendants, and such committee may from time to time alter the amount of such weekly sum as occasion may require; provided always, (*k*) that any such committee may, if they think fit, fix a greater weekly sum to be charged as aforesaid in respect of pauper lunatics other than those sent to such asylum from or settled in some parish or place situate in any county or borough to which such asylum belongs; provided also, that such sum shall in no case exceed the rate of fourteen shillings per week; but if the aforesaid rate of fourteen shillings per week be found insufficient for the purposes aforesaid, it shall be lawful for the major part of the justices of the county or borough or of each county or borough to which such asylum may belong, present at any general or quarter sessions for such county, or at a special meeting of the justices of such borough, or each such county or borough respectively, to make such addition to such rate as to them respectively shall seem fit and necessary, and to make an order or orders accordingly, which

(*i*) See s. 72, *post*.

(*j*) It will be observed that the items to be included are specifically enumerated; and that they do not comprise the cost of providing, upholding and furnishing the building, except in so far as it may be considered to come within the term "lodging."

(*k*) See s. 7, *ante*, and s. 42, *ante*; also 18 & 19 Vict. c. 105, s. 10, *post*, and 25 & 26 Vict. c. 111, ss. 6, 7, *post*.

order or orders shall be signed by the clerk of the peace for the county, or clerk to the justices for the borough, and forthwith published in some newspaper commonly circulated within such county or borough.

Visitors to appoint a Chaplain.—Patients allowed the Visits of any Minister of their own Persuasion.—Visitors to appoint Medical Officer, Clerk, and Treasurer, and such other Officers and Servants as they think fit.

LV. The committee of visitors of every asylum shall appoint a chaplain for the same, (*l*) who shall be in priest's orders, and shall be licenced by the bishop of the diocese, and the licence of any such chaplain as aforesaid shall be revocable by the bishop whenever he shall think fit; and such chaplain, or his substitute approved by the visitors, shall perform and celebrate, in the chapel of or in some convenient place within or belonging to such asylum, Divine service according to the rites of the Church of England as established by law, on every Sunday, Christmas Day, and Good Friday, and shall also perform and celebrate such service within the said asylum at such other times, and also such other services according to the rites of the Church of England as established by law, at such times as the visitors shall direct; and if any patient be of a religious persuasion differing from that of the established church, a minister of such persuasion, at the special request of such patient or his friends, shall, with the consent of the medical officer of such asylum, and under such regulations as he shall direct, be allowed to visit such patient at proper and reasonable times; and the committee of visitors of every asylum shall

(*l*) The chaplain is not required by the statute to reside in the asylum; and if he do so reside, his residence will be ratable in the ordinary manner. See *Congreve and another* v. *Overseers of Upton* (9 L. T. (N.S.) 684; 33 L. J. R. (N.S.) M. C. 83; 4 B. & S. 857); and the note to s. 35, *ante*. It seems, however, that a residence within the asylum may very properly be provided for the chaplain. In the case just cited, Blackburn, J., observed:—"I think that the gentlemen who have the management of the asylum have done very right in having a chaplain upon the spot, and that it is not a misapplication of the funds to provide a house for him." See also the 34 & 35 Vict. c. 66, "An Act to amend and define the law relating to private chapels, and to chapels belonging to colleges, schools, hospitals, *asylums*, and other public institutions."

appoint a medical officer, (*m*) who shall be resident in such asylum, and who shall not be clerk or treasurer of such asylum, (*n*) and a clerk (*o*) and treasurer, and such other officers and servants for the asylum as the committee may think fit; (*p*) and the committee shall have power to remove the chaplain, medical officer, clerk, and treasurer, or any other officer or servant, and shall from time to time, upon every vacancy, by death, removal, or otherwise, in the office of the chaplain, medical officer, clerk, or treasurer of the asylum, appoint some other person to such office, subject to the conditions and restrictions affecting the original appointment to such office, and may from time to time fill up or not, as in their discretion they may think fit, vacancies among other officers and servants of the asylum; and the committee shall, if they think fit, have power to appoint a visiting physician or surgeon (*q*) to every such asylum, and shall from time to time appoint the medical officer or one of the medical officers (if more than one) of the asylum, or where there is a separate medical officer of each division, then the medical officer or one of the medical officers (if more than one) of each division, to be the superintendent of the asylum or of such respective division thereof, and may remove any such officer from being such superintendent, and such superintendent shall be resident in the asylum, (*r*) and the committee shall from time to time fix the salaries and wages to be paid to the officers and servants of the asylum: (*s*) provided always, that it shall be lawful for the said committee, with the sanction and approbation of one of Her Majesty's principal Secretaries of State, to appoint any person other than such medical officer to be such superintendent: provided also, that where, on the tenth day of February one thousand eight hundred and fifty-three, any person, other

(*m*) The Medical Act, 21 & 22 Vict. c. 90, s. 36, enacts that no person shall hold any appointment as a physician, or surgeon, or other medical officer, in any lunatic asylum, unless he be registered under that Act.

(*n*) As to the prohibition on his signing certificates, see s. 76, *post*.

(*o*) s. 26, *ante*.

(*p*) s. 53, *ante*.

(*q*) See note (*m*) to this section, *ante*.

(*r*) See note to s. 35, *ante*.

(*s*) s. 53, *ante*. See also the Apportionment Act, 1870, 33 & 34 Vict. c. 35.

than a resident medical officer, was the superintendent of any asylum, such person may continue to be such superintendent as if this Act had not been passed, unless and until the committee otherwise direct. (*t*)

Clerk of Asylum to transmit to Commissioners in Lunacy Information of Dismissal of Attendants.

LVI. The clerk of every asylum shall within one week after the dismissal for misconduct of any nurse (*u*) or attendant (*u*) employed in such asylum, transmit to the Commissioners in Lunacy, by the post, information in writing under his hand of such dismissal, and of the cause thereof; (*v*) and every such clerk neglecting to transmit such information to the said Commissioners within one week after the dismissal of any such nurse or attendant shall for every such offence forfeit any sum not exceeding ten pounds. (*w*)

Visitors may grant Superannuations to the Superintendent, etc., not exceeding Two-thirds of their Salaries.

LVII. In case any superintendent, chaplain, matron, or any officer or servant of any asylum, become, from confirmed sickness, age, or infirmity, incapable of executing the office in person, or have been an officer or servant in the asylum for not less than twenty years, (*x*) and be not less than fifty years

(*t*) See Ninth Report of the Commissioners in Lunacy, 31st March, 1855, pp. 30, 31.

(*u*) s. 123, *post.* By the Juries Act, 1870, 33 & 34 Vict. c. 77, schedule, "keepers in public lunatic asylums" are exempt from serving on juries. The word "keeper," it is believed, does not occur in any of the Lunacy Acts; but probably the word "attendant" may be regarded as synonymous with the word "keeper." The expression, "public lunatic asylums" appears to be confined to county and borough asylums, and not to include either registered hospitals or licenced houses. See 16 & 17 Vict. c. 96, s. 36, *ante.*

(*v*) See also 16 & 17 Vict. c. 96, s. 26, *ante;* and Introduction, *ante,* p. 75.

(*w*) ss. 126, 127, *post.*

(*x*) "It would further seem desirable to reduce the time at which committees of visitors may grant superannuation allowances to their medical officers. Their duties are so peculiar, and such painful consequences are known to result from incessant intercourse with the various forms of this distressing disease, when prolonged for many years, that your committee believe it would tend to greater efficiency of service, if the period which stands at present at twenty years were reduced to fifteen." (Report from the Select Committee of the House of Commons on Lunatics, 27th July, 1860; Sess. Papers, No. 495, page vi.; *ante,* p. 324.) See 25 & 26 Vict. c. 111, s. 12, *post.*

of age, it shall be lawful for the committee of visitors of such asylum, if in their discretion they think fit so to do, but not otherwise, to grant to such superintendent, chaplain, matron, or other officer or servant such annuity by way of superannuation as they in their discretion think proportionate to the merits and time of service of such superintendent, chaplain, matron, or other officer or servant (whether incapable from sickness, age, or infirmity, or retiring from long service and age), and every such annuity shall be payable out of the rates lawfully applicable to the building or repairing of such asylum: provided always that the annual amount paid by way of superannuation to any retired superintendent, chaplain, matron, or other officer or servant of any asylum shall not exceed the amount of two-thirds of the salary payable at the time of his or her retirement, and that no such superannuation shall be granted unless notice of the meeting at which the same shall be granted, and of the intention to determine thereat the question of such superannuation, have been given, in such manner and so long before the time appointed for such meeting as is hereinbefore (*y*) provided with respect to notices of meetings of committees of visitors, nor unless three visitors concur in and sign the order granting the same. (*z*)

Clerk of the Asylum to keep Account of Monies paid and received, and send Abstract thereof annually to Secretary of State and Commissioners in Lunacy.

LVIII. The clerk (*a*) of every asylum shall keep all books, documents, and instruments which the visitors of the asylum are required to keep or direct to be kept, and shall also keep an account (*b*) of all monies received or paid on account of the asylum, either to or by the treasurer of the asylum or otherwise, and shall in the month of March in every year send an abstract of such account for the year previous ending on the thirty-first day of December to one of Her Majesty's principal Secretaries of State, and to the clerk or clerks of the peace of the county or borough, or of each county or borough, to which the asylum shall belong, and also to the

(*y*) ss. 24, 25, *ante*.
(*z*) 25 & 26 Vict. c. 111, ss. 12, 13, *post*.
(*a*) s. 55, *ante*.
(*b*) As to the audit of this account, see s. 60, *post*.

Commissioners in Lunacy, such abstract to contain such particulars and be in such form as the Commissioners in Lunacy may direct; and such Commissioners shall, within one month from the receipt of such abstract, cause a copy thereof to be laid before both Houses of Parliament.

Treasurer to keep Accounts.

LIX. The treasurer (*c*) of every asylum shall keep accounts of all monies received and paid by him. (*d*)

Visitors to audit Accounts.

LX. The committee of visitors of every asylum shall, previously to the month of March in every year, audit the accounts of the treasurer (*e*) and clerk (*f*) of such asylum, and shall report the same to the next general or quarter sessions of the county or each of the counties, and to the council of the borough or each of the boroughs, to which the asylum wholly or in part belongs.

Two Visitors at least to visit once in every Two Months every Asylum.

LXI. Not less than two members of every committee of visitors shall together, once at the least in every two months, inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificate (*g*) for the admission of every lunatic admitted since the last visitation of the visitors, and the general books kept in such asylum, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the condition and management of such asylum and the lunatics therein, and shall sign such book upon every such visit. (*h*)

(*c*) s. 55, *ante*.

(*d*) As to the audit, see s. 60, *post*.

(*e*) s. 59, *ante*.

(*f*) s. 58, *ante*.

(*g*) Or "certificates," where two are required (see s. 74, *post*). This must be considered to be implied.

(*h*) As to visits by guardians, and overseers, of the poor, see s. 65, *post;* and as to visitation by Commissioners in Lunacy, see 8 & 9 Vict. c. 100, s. 110, *ante;* and 25 & 26 Vict. c. 111, s. 30, *post*. See also, as to the Lord Chancellor, and the Home Secretary, 8 & 9 Vict. c. 100, ss. 112, 113, *ante;* 16 & 17 Vict. c. 96, ss. 33, 34, *ante*.

Annual Reports to be made by Committees of Visitors to Justices at Quarter Sessions, etc., and Copies sent to Commissioners in Lunacy.

LXII. The committee of visitors of every asylum shall in every year lay before the justices of every county and borough to which such asylum wholly or in part belongs, at the court of general or quarter sessions to be holden next after the twentieth day of December in every year for such county, or at a special meeting of the justices of such borough to be holden within twenty days after the twentieth day of December in every year, (*i*) a report in writing of the state and condition of such asylum, and as to its sufficiency for the proper accommodation of the number of lunatics for whom it may be requisite to provide accommodation, and as to the management of such asylum, and the conduct of the officers and servants thereof, and the care of the patients therein, and such committee may in such report make such remarks or observations in relation to any matters connected with such asylum as they may think fit; and the clerk to such committee shall transmit a copy of such report to the Commissioners in Lunacy, and if any such clerk neglect so to do for twenty-one days after the laying of such report before the justices of any county or borough, he shall for such offence forfeit any sum not exceeding ten pounds. (*j*)

Lists of Pauper Patients in asylums to be made half-yearly and laid before Visitors, and Copies transmitted to Clerks of the Peace and Commissioners in Lunacy.—Lists of private Patients to be sent half-yearly to the Commissioners.

LXIII. The clerk of every asylum shall, on the first day of January and first day of July in every year, prepare a list of all pauper lunatics then in such asylum, according to the form in schedule (C) No. 1, to this Act annexed, (*k*) and within fifteen days after such list shall have been prepared one copy thereof shall be laid by such clerk before the visitors of the asylum, and another shall be transmitted by him to the clerk of the peace of every or any county and to the clerk to the justices of every or any borough to

(*i*) See s. 22, *ante*.
(*j*) ss. 126, 127, *post*.
(*k*) See the note thereon. See also 25 & 26 Vict. c. 111, s. 34, *post*.

which such asylum solely or jointly belongs, to be by him laid before the justices of such county or borough, and another copy of such list shall within the same time be transmitted by such clerk to the Commissioners in Lunacy; and the clerk of every asylum receiving private patients (*l*) shall also on the first day of January and first day of July in every year prepare a list containing the christian names and surnames of all the private patients in such asylum (*m*) in the form in schedule (C) No. 2, to this Act annexed, and shall within fifteen days after such list shall have been prepared transmit the same to the Commissioners in Lunacy; and shall also within the same time transmit to such clerk of the peace and clerk to the justices as aforesaid, for the purposes aforesaid, a certificate under his hand of the number of such private patients of each sex.

Clerks of Boards of Guardians, and Overseers where no Guardians, to make annual returns of Pauper Lunatics.

LXIV. The clerk of the board of guardians of every union, and of every parish under a board of guardians, (*n*) and the overseers of every parish not in a union nor under a board of guardians, shall, on the first day of January in every year, or as soon after as may be, make out and sign a true and faithful list of all lunatics chargeable to the union

(*l*) s. 43, *ante*.

(*m*) *i.e.*, in the asylum on those days, respectively. See the heading to the form in the schedule, *post*.

(*n*) By the 5 & 6 Vict. c. 57, s. 6 (passed 30th July, 1842), the clerk to every board of guardians appointed under the provisions of 4 & 5 Wm. iv. c. 76, or acting under the regulations of the Poor Law Commissioners, was required to make out a similar list on the 15th August in every year; but so much of that section as referred to such lists was expressly repealed by 8 & 9 Vict. c. 126, s. 47. This last-named Act was itself repealed by 16 & 17 Vict. c. 97, s. 1 (*ante*), but the repeal of the former enactment was not thereby affected (see 13 & 14 Vict. c. 21, s. 5). The other part of s. 6 of 5 & 6 Vict. c. 57, which gave to guardians and relieving officers similar powers and duties respecting the insane to those of overseers under the provisions of 9 Geo. iv. c. 40, was virtually superseded by the subsequent legislation,—namely, the repeal of the 9 Geo. iv. c. 40 by 8 & 9 Vict. c. 126, followed by the repeal of 8 & 9 Vict. c. 126, and the substitution of other provisions, by 16 & 17 Vict. c. 97, and was expressly repealed in 1874 by the Statute Law Revision Act, 37 & 38 Vict. c. 96. As to 7 & 8 Vict. c. 101, s. 28, which related to guardians acting under Local Acts, their clerks and other officers, see note (*g*) to s. 132, *post*.

or parish in the form in schedule (D) hereunto annexed, (*o*) and shall, on or before the first day of February next succeeding, lay (*p*) one copy of such list before the visitors of the asylum, or before the visitors of each asylum (if more than one) of the county or borough in which such union or parish is situate, and shall transmit (*p*) one copy of such list to the clerk of the peace of the county, or the clerk to the justices of the borough within which the union or parish to which each such lunatic is chargeable is situate, to be by him laid before the justices acting for such county at their next general or quarter sessions, or before the justices of such borough, and another copy of such list to the Commissioners in Lunacy, and another copy thereof to the Poor Law Board; (*q*) and any such clerk or overseer neglecting to make out and sign such list, or to transmit copies thereof, as herein directed, shall for every such offence forfeit any sum not exceeding twenty pounds. (*r*)

Power for Medical Persons, Guardians, and Overseers of Unions and Parishes, to visit Pauper Patients of such Unions and Parishes confined in any Asylum.

LXV. Any physician, surgeon, or apothecary (*s*) to be appointed by the guardians of any union or parish or the overseers of any parish, and also the guardians of any union or parish, and the overseers of any parish shall be per-

(*o*) See the notes thereon. See also 25 & 26 Vict. c. 111, s. 34, *post*, and circulars in Appendix, *post*.

(*p*) The difference between these expressions—"lay before" and "transmit"—seems to imply that the clerk to the guardians (or the overseers) should attend in person and place the list before the visitors; but if so, there is no provision for the payment of any expenses which may be incurred in the journey for that purpose. The phraseology of s. 64 in this respect follows that of s. 63, which requires the clerk of the asylum to lay before the visitors the half-yearly returns therein referred to; but the clerks to the guardians (or the overseers) have no opportunity of meeting the visitors, except by making a special journey to attend them.

(*q*) Now the Local Government Board. See 34 & 35 Vict. c. 70, establishing the Local Government Board in lieu of the Poor Law Board. And see also the Poor Law Board's Circular, 31st January, 1865, and the letter of the Commissioners in Lunacy, 20th December, 1864, in Appendix, *post*.

(*r*) ss. 126, 127, *post*.

(*s*) s. 132, *post*, and 25 & 26 Vict. c. 111, s. 47, *post*. If the medical man appointed for this purpose be the medical officer of the union or

mitted, (*t*) whenever they see fit, between the hours of eight in the morning and six in the evening, to visit and examine any or every pauper lunatic (*u*) chargeable to such union or parish confined in any asylum, (*v*) registered hospital, or licenced house: (*w*) provided always, that if the medical officer of any asylum be of opinion that it will be injurious to any lunatic to permit such visit and examination, and such medical officer state in writing the reasons why such lunatic should not be visited and examined, and sign such statement, and deliver the same to the person or persons so requiring to visit and examine such lunatic, then and in such case it shall be lawful for such medical officer to refuse such visit and examination; and in every such case such medical officer shall forthwith enter in the Medical Journal (*x*) the reasons set forth in such statement for such refusal, and shall sign such entry.

PROVISIONS CONCERNING VISITATION, CONFINEMENT, REMOVAL, AND DISCHARGE OF LUNATICS.

Every Pauper Lunatic not in an Asylum, Registered Hospital or Licenced House, to be Visited once a quarter by the Medical Officer of the Parish or Union, and lists of such Lunatics to be sent to Commissioners in Lunacy.

LXVI. Every pauper (*y*) lunatic (*y*) not in an asylum, or a

parish, he will be entitled to special remuneration for the visit, as the service is not one which he is bound by the duties of his office to perform. By express agreement, however, the remuneration for such visits can be included in his salary.

(*t*) It does not appear that the consent of the visiting justices need be obtained. The statute confers the right to visit, by providing that the visit "shall be permitted," subject to the opinion of the medical officer of the asylum. Where the guardians of any union or parish appoint their medical officer or any other medical man to visit the asylum, they should do so by express resolution, an authenticated copy of which should be supplied to him, to be produced to the superintendent of the asylum.

(*u*) See s. 132, *post*.

(*v*) See also 25 & 26 Vict. c. 111, s. 34, *post*; and Circular of the Poor Law Board, Appendix, *post*; and the General Order issued by the Poor Law Board on 27th June, 1870; and Introduction, *ante*, p. 301.

(*w*) See also s. 119, *post*, and the note thereon.

(*x*) s. 90, *post*.

(*y*) See s. 132, *post*. The Poor Law Board expressed their opinion that every pauper lunatic who has received relief at some time during any quarter of the year should be visited by the medical officer and included in his return for that quarter; and that it makes no differ-

hospital registered or a house licenced for the reception of lunatics, shall be visited once in every quarter of a year (reckoning the several quarters of the year as ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December), by the medical officer of or for the parish or union or district of a parish or union in which such lunatic is resident; (*z*) and such medical officer shall be paid (*a*) the

ence in that respect whether such relief is merely medical relief, or relief of a more general character (Off. Cir., 1857, No. 55 (N.S.), p. 59). It is not necessary that the lunatic should be actually chargeable at the time of the visit, but it will be sufficient if he have been chargeable at any time, previously, in the course of the quarter during which the visit is made (O. C. 1859, No. 58 (N.S.), p. 103). The Board, however, did not think that a chargeability which has ceased prior to the commencement of that quarter will be sufficient to constitute the lunatic a "pauper lunatic" within the meaning of the enactment (*ibid.*). The Board also expressed their opinion that patients who have been discharged from an asylum, as cured, are not to be visited and included in the quarterly return, unless, being chargeable, there is reason to believe that they are still labouring under such an unsoundness of mind as is contemplated by the Interpretation Clause, s. 132 (O.C. 1856, No. 52 (N.S.), p. 4). Idiots, whether adults or children, are to be included in the return (*ibid.*), as well as other classes of lunatics; but it will be observed that the return is limited to such pauper lunatics as are not confined in an asylum or other establishment. (See Introduction, *ante*, p. 305.) If relief is granted to a parent for a lunatic child, or for the parent and the children including a lunatic child, such child appears to be a "pauper lunatic" within the meaning of this enactment; but if relief be granted for the parent alone, or not for the lunatic child, then such child would not seem to come within the terms of the section.

(*z*) In the case of a pauper lunatic receiving non-resident relief, the visit should be made, and reported in his quarterly return, by the medical officer of the district of the union or parish in which the lunatic is resident; but the fee payable to the medical officer for such visit should be paid by the guardians of the union or parish granting the relief, according to the subsequent direction of the Act, which requires that the fee "shall be paid by the same persons and charged to the same account as the relief of such pauper."

(*a*) Disputes have sometimes arisen between the guardians and the medical officers, as to the payment of these fees. The Poor Law Board pointed out that whether any particular pauper visited by the medical officer is a lunatic or not, is a question of fact, on the determination of which the medical officer's claim to the fee depends; and that consequently it is not a question which is to be conclusively determined by the medical officer himself. If any pauper, when so visited, is not in fact a lunatic, the mere circumstance of his being included in the quarterly return of the medical officer will neither make the pauper a lunatic within the meaning of the statute, nor entitle the medical officer to the

sum of two shillings and sixpence for each such quarterly visit to any pauper not being in a workhouse, (*b*) which sum shall be paid by the same persons, and be charged to the same account as the relief of such pauper; (*c*) and within seven days after the end of every such quarter such medical

fee. If the guardians entertain a substantial doubt as to the lunacy of any pauper included in the return, they are justified in ascertaining the fact for themselves, and in refusing to pay the fee claimed if they find that the pauper is not in fact a lunatic. Of course they should not refuse without adequate ground; and if the medical officer should take steps to recover the fee, they should be prepared with sufficient proof to show that the pauper in question was not a lunatic and was therefore not properly included in the return (O. C. 1858, No. 57 (N.S.), p. 85). The Commissioners in Lunacy have expressed their opinion "that all persons receiving parochial relief on account of mental infirmity or imbecillity should be brought under the notice of the medical officer, visited by him, and included in his list." (See their Thirteenth Report, p. 75; and Extract in Appendix, *post*.)

(*b*) The pauper lunatics in workhouses are to be visited, and the proper officer to visit and report is the medical officer of the workhouse, whether he be or be not the medical officer of the district in which the workhouse is locally situated. (See the Poor Law Board's Circular of 3rd January, 1854, *post*.) In their Sixth Annual Report (1853), p. 9, the Poor Law Board stated as follows:—"Some doubt having arisen with reference to the obligation cast upon the workhouse medical officer with reference to his duties under this clause [16 & 17 Vict. c. 97, s. 66], we consulted the Commissioners in Lunacy upon the subject, who informed us that they considered that the workhouse medical officer was required by this section to report upon the state of the lunatics in the workhouse, and that the practice under the previous Act was conformable to this view. We have since communicated this opinion to the several unions and parishes having workhouse medical officers." No change in this respect is made by 25 & 26 Vict. c. 111, s. 21, *post*. No fee, however, is to be paid for such visits; and the Commissioners in Lunacy have expressed an opinion that this exception was made advisedly, it being considered that no fee was called for, as the medical officer would constantly visit the workhouse in the course of his ordinary duty (O. C. 1856, No. 52 (N.S.), p. 4).

(*c*) The Poor Law Board expressed their opinion that these fees should not be paid by the relieving officers, and charged in their accounts; but that they should be paid by the guardians by whom the relief is granted, directly to the medical officers, at the close of each quarter, after the returns have been received. They recommended that in unions a separate account of such payments should be opened in the union ledger, so as to show the entire cost (O. C. 1856, No. 52 (N.S.), p. 4). With respect to the limitation of the time for payment, see 22 & 23 Vict. c. 49, s. 1, *post*. As each fee is to be charged in the same manner as the relief of the pauper who is visited, the charge will not be affected by the provisions of 24 & 25 Vict. c. 55, s. 6, *post*, which, it will be seen,

officer shall prepare and sign a list according to the form in the schedule (E) (*d*) to this Act of all such lunatics, and shall state therein whether in the opinion of such medical officer all or any of such lunatics are or are not properly taken care of, and may or may not properly remain out of an asylum, (*e*) and such medical officer shall within the time aforesaid (*f*) deliver or send such list to the clerk to the guardians of such parish or union, or if such parish be not under a board of guardians to one of the overseers thereof: and the forms for such lists shall be from time to time furnished to the medical officer of every parish under a board of guardians, and to the medical officers of every union, by the guardians of such parish or union; (*g*) but nothing in this enactment shall be taken or construed to relieve any medical officer from any obligation by this Act imposed upon him to give notice to a relieving officer or overseer where it appears to such medical officer that any pauper lunatic ought to be sent to an asylum; (*h*) and such clerk or overseer receiving any such list as aforesaid shall, within three days after the receipt thereof, transmit the same to the Commissioners in Lunacy, (*i*) and a copy (*j*) thereof to the clerk to the visitors of the asylum for the county or borough in which the parish or union for which he is clerk or overseer is situate; and every such medical officer, clerk, or overseer failing to comply with this enactment shall for every such offence forfeit any sum not exceeding twenty pounds nor under two pounds. (*k*)

do not apply to pauper lunatics who are not in any asylum, hospital, or licenced house; but as all relief in unions is now chargeable to the common fund, under 28 & 29 Vict. c. 79, s. 1, *post*, the fees referred to are likewise so chargeable.

(*d*) See the notes thereon; see also 25 & 26 Vict. c. 111, s. 21, *post;* and schedule B to that Act, *post;* Introduction, *ante*, p. 305; and Circulars in Appendix, *post*.

(*e*) 25 & 26 Vict. c. 111, s. 21, *post*.

(*f*) *i.e.*, within seven days after the end of each quarter.

(*g*) The cost of these forms will be chargeable to the common fund.

(*h*) See s. 67, *post*, s. 70, *post;* and 25 & 26 Vict. c. 111, s. 20, *post;* also, ss. 31, 32, 33 of that Act, *post*.

(*i*) See Circular, 1st December 1853, Appendix, *post*.

(*j*) The Act does not specify by whom this copy is to be made; but as the clerk (or overseer) is directed to transmit it, and no one else is directed to make it, he must apparently make it himself; as otherwise he will not be able to fulfil the prescribed duty of transmitting it.

(*k*) ss. 126, 127, *post*.

Provision for sending Pauper Lunatics to Asylums.

LXVII. Every medical officer of a parish or union who shall have knowledge that any pauper (*l*) resident in such parish, or in any parish within the district of such medical officer, is or is deemed to be a lunatic, (*l*) and a proper person to be sent to an asylum, (*m*) shall (*n*) within three days after obtaining such knowledge give notice thereof in writing to a relieving officer of such parish, or if there is no relieving officer then to one of the overseers of such parish, and every relieving officer of any parish within a union or under a board of guardians, and every overseer of a parish of which there is no relieving officer, who shall have knowledge, either by such notice or otherwise, that any pauper resident in such parish is or is deemed to be a lunatic, [*and a proper person to be sent to an asylum,*] (*o*) shall (*n*) within three days after obtaining such knowledge give notice thereof to some justice (*p*) of the county or borough within which such parish is situate; and thereupon the said justice shall, by an order under his hand and seal, (*q*) require such relieving officer or overseer to bring such pauper before him, or some other justice of the said county or borough, at such time and place within three days from the time of such notice being given to such justice as shall be appointed by the said order; (*r*) and the said justice before whom such pauper shall be brought shall call to his assistance a physician, surgeon, or apothecary, (*s*) and examine such person; and if such physician, surgeon, or apothecary (*s*) shall sign a certificate

(*l*) See s. 132, *post*. It may be remarked that a lunatic, though not previously a pauper, may become so by the very circumstance of his requiring proper aid in his state of lunacy (O. C. 1859, No. 58 (N.S.), p. 103). See also 25 & 26 Vict. c. 111, s. 26, *post*.

(*m*) 25 & 26 Vict. c. 111, s. 20, *post*; see also *ibid.* s. 31, *post*.

(*n*) s. 70, *post*.

(*o*) 25 & 26 Vict. c. 111, s. 19, *post*; and see the note thereon.

(*p*) But see second proviso, *post*.

(*q*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*r*) But see first proviso, *post*. As to the practice in the metropolis, see the Poor Law Board's Circular of 26th November, 1867, Appendix, *post*.

(*s*) s. 132, *post*; 25 & 26 Vict. c. 111, s. 47, *post*.

with respect to such pauper, according to the form in schedule (F) No. 3, to this Act annexed, (*t*) and such justice be satisfied, upon view, or personal examination of such pauper or other proof, that such pauper is a lunatic, and a proper person to be taken care of and detained under care and treatment, (*u*) he shall, by an order under his hand according to the form in the said schedule (F) No. 1, to this Act annexed, (*t*) direct such pauper to be received into such asylum as hereinafter mentioned, (*v*) or, where hereinafter authorised in this behalf, (*v*) into some hospital registered or some house duly licenced for the reception of lunatics; and such relieving officer or overseer shall (*w*) immediately (*x*) convey or cause the said lunatic to be conveyed to such asylum, hospital, or house, (*y*) and such lunatic shall be received and detained therein: provided always, that it shall be lawful for any justice, upon notice being given to him as aforesaid, or upon his own knowledge, without any such notice as aforesaid, (*z*) to examine any pauper deemed to be lunatic at his own abode or elsewhere, and to proceed in all respects as if such paupers were brought before him in pursuance of an order for that purpose; (*z*) provided also, that in case any pauper deemed to be lunatic cannot, on account of his health or other cause, be conveniently taken before any justice, such pauper may be examined at his own abode or elsewhere by an officiating clergyman (*a*) of the parish in which he is resident, together with a relieving officer, or if there be no relieving officer an overseer of such parish, and such officiating clergyman, (*a*)

(*t*) See the notes thereon.

(*u*) But see fourth proviso, *post*.

(*v*) s. 72, *post*; s. 78, *post*.

(*w*) s. 71, *post*.

(*x*) But see third proviso, *post*.

(*y*) As to the expenses of the conveyance, see s. 69, *post*, and the notes thereon.

(*z*) See *Reg.* v. *Rhyddlan* (14 Q. B. 327), which had reference to the repealed Act 8 & 9 Vict. c. 126; also *Reg.* v. *Guardians of Carnarvon and Anglesea Union* (14 Q. B. 357; 3 N. S. C. 708).

(*a*) s. 132, *post*. As to whether an order signed by an officiating clergyman and relieving officer (or overseer) can be removed by *certiorari*, see *Reg.* v. *Hatfield Peverel* (14 Q. B. 298; 18 L. J. R. (N.S.) M. C. 225), which had reference to 8 & 9 Vict. c. 100, s. 48, *ante*, now repealed.

together with such relieving officer or overseer, shall call to their assistance a physician, surgeon, or apothecary; (*b*) and if such physician, surgeon, or apothecary (*b*) shall sign a certificate with respect to such pauper according to the said form in the said schedule (F) No. 3, (*c*) and if upon view or examination of such pauper such officiating clergyman (*d*) and such relieving officer or overseer be satisfied that such pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment, (*e*) such officiating clergyman, (*d*) together with such overseer or relieving officer, shall, by an order under their hands according to the said form in the said schedule (F) No. 1, (*c*) direct such pauper to be received into such asylum as hereinafter mentioned, (*f*) or, where hereinafter authorised in this behalf, (*f*) into some such registered hospital or licenced house as aforesaid, and such relieving officer or overseer shall, (*g*) immediately, (*h*) convey or cause such pauper to be conveyed to such asylum, hospital, or house, (*i*) and such pauper shall be received and detained therein; provided also, that if the physician, surgeon, or apothecary (*b*) by whom any such pauper shall be examined shall certify in writing that he is not in a fit state to be removed, his removal shall be suspended until the same or some other physician, surgeon, or apothecary (*b*) shall certify in writing that he is fit to be removed; and every such physician, surgeon, and apothecary (*b*) is required to give such last-mentioned certificate as soon as in his judgment it ought to be given; provided also, that where a certificate in the form in the said schedule (F) No. 3, is signed by the medical officer of the parish or union in which the pauper named therein is resident, as well as by some other person being a physician, surgeon, or apothecary (*b*) called to the assistance of the justice or clergyman (*d*) and overseer or

(*b*) s. 132, *post;* and 25 & 26 Vict. c. 111, s. 47, *post.*
(*c*) See the notes thereon.
(*d*) See note (*a*) on preceding page.
(*e*) But see fourth proviso, *post.*
(*f*) s. 72, *post*, s. 78, *post.*
(*g*) s. 71, *post.*
(*h*) But see third proviso, *post.*
(*i*) As to the expenses of the conveyance, see s. 69, *post*, and the notes thereon.

relieving officer, as hereinbefore mentioned, such joint certificate or such two certificates (as the case may be), shall be received by the justice or clergyman (*j*) and overseer or relieving officer by whom such person is examined as hereinbefore mentioned as conclusive evidence that the person named therein is a lunatic, and a proper person to be taken charge of and detained under care and treatment, and he or they shall make an order in the form in the said schedule (F) No. 1, accordingly.

Provision as to Lunatics wandering at large, not being properly taken care of, or being cruelly treated, &c.

LXVIII. Every constable (*k*) of any parish or place, and every relieving officer (*k*) and overseer (*k*) of any parish, who shall have knowledge that any person wandering at large (*l*) within such parish or place (whether or not such person be a pauper) (*k*) is deemed to be a lunatic, (*k*) shall immediately apprehend and take or cause such person to be apprehended and taken before a justice; and it shall also be lawful for any justice, upon its being made to appear to him by the information upon oath of any person whomsoever that any person wandering at large (*l*) within the limits of his jurisdiction is deemed to be a lunatic, by an order

(*j*) See note (*a*) on p. 391.

(*k*) s. 70, *post*; and s. 132, *post*.

(*l*) On 3rd December, 1841, the Poor Law Commissioners issued an order to the unions, and parishes under boards of guardians, comprised within the City of London and the Metropolitan Police District, which directs that whenever any insane person wandering abroad, whose friends or relations are unknown, shall have been received into any workhouse belonging to any of those unions or parishes, the master of such workhouse shall fill up four notices, in a form prescribed, and affix one to the outer gate of the workhouse, and forward one to each of the police stations nearest to the place where the insane person shall be understood to have been found; and also, that if, at the expiration of twenty-four hours, no claim or inquiry shall have been made at the workhouse respecting such insane person, the master shall send a copy of the notice, duly filled up, to the clerk to the guardians, who shall immediately cause forty-eight copies to be prepared, and transmit thirty-six copies to the Commissioners of the Metropolitan Police, and twelve copies to the Commissioner of Police for the City of London. (Eighth Annual Report of the Poor Law Commissioners, Appendix A, Nos. 13, 14, pp. 181—186; Official Circular, 27th December, 1841, No. 14, p. 193; and Glen's Poor Law Board Orders, seventh edition, 1871.)

under the hand and seal (*m*) of such justice, to require any constable of the parish or place, or relieving officer or overseer of the parish where such person may be found, to apprehend him and bring him before such justice, or some other justice having jurisdiction where such person may be found; (*n*) and every constable (*o*) of any parish or place, and every relieving officer (*o*) and overseer (*o*) of any parish, who shall have knowledge that any person in such parish or place, not a pauper (*o*) and not wandering at large as aforesaid, is deemed to be a lunatic, (*o*) and is not under proper care and control, (*p*) or is cruelly treated or neglected by any relative or other person having the care or charge of him, (*p*) shall, within three days after obtaining such knowledge, give information thereof upon oath to a justice, and in case it be made to appear to any justice, upon such information or upon the information upon oath of any person whomsoever, that any person within the limits of his jurisdiction not a pauper, and not wandering at large, is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, such justice shall either himself visit and examine such person and make inquiry into the matters so appearing upon such information, or by an order under his hand and seal (*m*) direct and authorise some physician, surgeon, or apothecary (*q*) to visit and examine such person, and make such inquiry, and to report in writing to such justice his opinion thereupon; and in case upon such personal visit, examination, and inquiry by such justice, or upon the report of such physician, surgeon, or apothecary, (*q*) it appear to such justice that such person is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or

(*m*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*n*) See also the first proviso to this section, *post*. As to the practice in the metropolis, see the Poor Law Board's Circular of 26th November, 1867, Appendix, *post*.

(*o*) s. 70, *post;* and s. 132, *post*.

(*p*) See the cases referred to in the Introduction, *ante*, pp. 83–92; and as to *Reg.* v. *Marriott* (*ante*, p. 84), see also *Reg.* v. *Hook*, and *Reg.* v. *Bubb*, 4 Cox C. C. 455. And see further, 16 & 17 Vict. c. 96, s. 9, *ante*.

(*q*) s. 132, *post;* and 25 & 26 Vict. c. 111, s. 47, *post*.

charge of him, it shall be lawful for such justice, by an order under his hand and seal, (*r*) to require any constable of the parish or place, or any relieving officer or overseer of the parish, where such person is alleged to be, to bring him before any two justices of the same county or borough; and the justice or justices (as the case may be) before whom any such person as aforesaid in the respective cases aforesaid is brought, under this enactment, shall call to his or their assistance a physician, surgeon, or apothecary, (*s*) and shall examine such person, and make such inquiry relative to such person as he or they shall deem necessary; (*t*) and if upon examination of such person or other proof such justice be satisfied that such person so brought before him is a lunatic, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, or such two justices be satisfied that such person so brought before them is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, and if such physician, surgeon, or apothecary (*s*) sign a certificate with respect to every such person so brought either before one justice or two justices according to the form in the schedule (F) No. 3 (*u*) to this Act, it shall be lawful for the said justice or justices, by an order under his or their hand and seal (*v*) or hands and seals, (*v*) according to the form in the schedule (F) No. 1 (*u*) to this Act, to direct such person to be received into such asylum as hereinafter mentioned, (*w*) or, where hereinafter authorized in this behalf, (*w*) into some hospital registered or house licenced for the reception of lunatics, and the said constable, (*x*) relieving officer, (*x*) or overseer (*x*) who may have brought such person before the said justice or justices, or any constable (*x*) whom such justice or justices may require so to do, shall forthwith convey such person to such asylum,

(*r*) 18 & 19 Vict. c. 105, s. 15, *post*.
(*s*) s. 132, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*.
(*t*) See also the first proviso to this section, *post*.
(*u*) See the notes thereon.
(*v*) 18 & 19 Vict. c. 105, s. 15, *post*.
(*w*) s. 72, *post*; and s. 78, *post*.
(*x*) s. 71, *post*.

hospital, or house accordingly: (*y*) provided always, that it shall be lawful for any justice, upon such information on oath as aforesaid, or upon his own knowledge, and alone, in the case of any such person as aforesaid wandering at large and deemed to be a lunatic, or with some other justice, in any other of the cases aforesaid, to examine the person deemed to be a lunatic, at his own abode or elsewhere, and to proceed in all respects as if such person were brought before him or them as hereinbefore mentioned; (*z*) provided also, that it shall be lawful for the said justice or justices to suspend the execution of any such order for removing any such person as aforesaid to any asylum, hospital, or house for such period not exceeding fourteen days as he or they may deem meet, and in the meantime to give such directions or make such arrangements for the proper care and control of such person as he or they shall consider necessary; provided also, that if the physician, surgeon, or apothecary (*a*) by whom such person is examined certify in writing that he is not in a fit state to be removed, the removal of such person shall be suspended until the same or some other physician, surgeon, or apothecary (*a*) certify in writing that such person is fit to be removed; and every such physician, surgeon, and apothecary (*a*) is hereby required to give such last-mentioned certificate as soon as in his judgment it ought to be given; provided also, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from retaining or taking such lunatic under his own care, if such relation or friend shall satisfy the justice or justices before whom such lunatic shall be brought, or the visitors of the asylum in which such lunatic is or is intended to be placed, that such lunatic will be properly taken care of. (*b*)

Power to Justices to order Payment of a Fee to any Physician, etc., called in to examine any Person.

LXIX. It shall be lawful for any justice or justices caus-

(*y*) See second and third provisoes to this section, *post*. As to the payment of the expenses, see s. 69, *post*; s. 94, *post*; s. 95, *post*; s. 104, *post*; and s. 118, *post*.

(*z*) See note (*z*) to s. 67, *ante*.

(*a*) s 132, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*.

(*b*) See Introduction, *ante*, pp. 80–92; and the several enactments and cases there referred to; also, *ante*, pp. 28, 29.

ing any person to be examined by any physician, surgeon, or apothecary, (*c*) under the provisions hereinbefore contained, (*d*) if he or they think fit so to do, to make an order (*e*) under his or their hand and seal (*f*) or hands and seals (*f*) upon the guardians of the union or parish or the overseers of the parish to which such person is chargeable, (*g*) under the provisions herein contained, for the payment of such reasonable remuneration to any such physician, surgeon, or apothecary, (*c*) for the examination of such person, and of all other reasonable expenses in or about the examination of such person, and the bringing him before such justice or justices, (*h*) and in case he be ordered to be conveyed to any asylum, registered

(*c*) See s. 132, *post;* and 25 & 26 Vict. c. 111, s. 47, *post.*—If a medical officer of the union or parish be called in (as he may be) by the justice or justices to give evidence as to the lunacy, and to sign the certificate required by the Act, an order may be made upon the guardians for his remuneration, as in the case of any other medical man.

The medical officer will still be bound to give to the guardians or the relieving officer, when called upon to do so, the certificate with regard to any pauper on whom he is attending, which is referred to in Article 205, No. 3, of the General Consolidated Order of the Poor Law Commissioners, without any extra fee or remuneration. (See note (z) to s. 79, *post;* and Glen's Poor Law Board Orders, seventh edition, 1871.) That certificate, however, is for the information of the guardians or relieving officer, and is quite distinct from the certificate required to be given by a medical man called in to the aid of a justice or justices under the present statute.

(*d*) s. 67, *ante;* s. 68, *ante.*

(*e*) The provisions of 11 & 12 Vict. c. 43, s. 11, appear to be applicable, so as to require this order to be made within six months after the date of the proceedings.

(*f*) 18 & 19 Vict. c. 105, s. 15, *post.*

(*g*) The order can only be made upon the guardians of the union or parish (or overseers of the parish) to which the lunatic is chargeable under the provisions of the Act; and apparently, therefore, it cannot be made in any case of a person not a pauper, brought before a justice or justices under s. 68, if such person be not ordered to be sent to an asylum, hospital, or licenced house. Where, however, such person is so ordered to be sent, the case would seem to be brought within s. 69 by the operation of s. 118. *post.*

(*h*) No provision is made in this section for the payment of the expenses, where the lunatic is sent to an asylum (or other establishment) under an order signed by an officiating clergyman and relieving officer (or overseer). Such a case, therefore, would not come within s. 103, *post;* but apparently the relieving officer (or overseer) would be justified in charging in his accounts the reasonable expenses neces-

hospital, or licenced house, of conveying him thereto, as to such justice or justices may seem proper. (*i*)

Penalties on Medical Officers, Overseers, etc., omitting to give notice as aforesaid.

LXX. If any medical officer of any parish or union omit for more than three days after obtaining knowledge of any pauper resident in such parish, or in any parish within his district, being or being deemed to be lunatic, and a proper person to be sent to an asylum, to give such notice thereof as is hereinbefore required, (*j*) or if any relieving officer of any parish, or any overseer of any parish of which there is no relieving officer, omit for more than three days after obtaining knowledge of any pauper resident in such parish, being deemed to be a lunatic, and a proper person to be sent to an asylum, (*k*) to give notice thereof to a justice as hereinbefore required, or if any constable, relieving officer, or overseer omit to apprehend and take before a justice, as hereinbefore required, any person wandering at large and deemed to be a lunatic, (*l*) or omit for three days after obtaining knowledge that any person deemed to be a lunatic (not a pauper and not wandering at large) is not under

sarily incurred in the discharge of the duties cast upon him by the statute. Any charge so made will, of course, be subject to the auditor's revision, both as regards its legality and its reasonableness.

(*i*) See also s. 103, *post*. If an order be made under s. 69, upon the guardians of a union, for the payment of the expenses incurred by the relieving officer in bringing the case before a justice or justices, and in conveying the lunatic to the asylum or other establishment, the guardians will make the payment accordingly, and will charge the amount to the common fund, under s. 102 (*post*), or under 24 & 25 Vict. c. 55, s. 6 (*post*). If they prefer to do so, however, they can make the payment, under s. 103 (*post*), without any order. As to the question, whether the guardians ought not to be summoned before such an order can be made upon them, see *Reg.* v. *the Guardians of Totnes Union* (14 L. J. R. (N.S.) M.C. 148). If the expenses incurred by the relieving officer be not repaid to him by the guardians, either under s. 69 or under s. 103, he can enter the amount in his accounts; and it will then rest with the auditor to decide as to the legality and reasonableness of the charge.

(*j*) See s. 67, *ante;* also 25 & 26 Vict. c. 111, s. 20, *post.*

(*k*) See s. 67, *ante;* and 25 & 26 Vict. c. 111, s. 19, *post.*

(*l*) s. 68, *ante.*

proper care and control, or is cruelly treated or neglected by any person having the care or charge of him (*m*) to give information thereof to a justice as hereinbefore required, such medical officer, relieving officer, overseer, or constable, as the case may be, shall for every such offence forfeit any sum not exceeding ten pounds. (*n*)

Penalty on Relieving Officers, Overseers, and Constables delaying to execute Orders.

LXXI. If any relieving officer, (*o*) overseer, (*o*) or constable (*p*) by this Act required to convey any person to any asylum, registered hospital, or licenced house, in pursuance of any order under this Act, refuse or wilfully neglect to execute such order with all reasonable expedition, he shall for every such offence forfeit any sum not exceeding ten pounds. (*q*)

Orders of Justices, etc., may extend to authorise Reception into Hospitals or Licenced Houses, but Lunatics to be always sent to Asylum, if Circumstances permit.

LXXII. Every such order by a justice (*r*) or justices, (*r*) or by a clergyman (*s*) and overseer (*s*) or relieving officer (*s*) as aforesaid, (*t*) for the reception of a lunatic into an asylum, may authorise his admission, not only into any lunatic asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital registered or house licenced for the reception of lunatics; but every lunatic shall under every such order be sent to an asylum of the county or borough in which the parish or place from which he is sent is situate, unless there

(*m*) s. 68, *ante*.
(*n*) ss. 126, 127, *post*.
(*o*) s. 67, *ante*; s. 68, *ante*.
(*p*) s. 68, *ante*.
(*q*) ss. 126, 127, *post*.
(*r*) s. 67, *ante*; s. 68, *ante*.
(*s*) s. 67, *ante*.
(*t*) See also 25 & 26 Vict. c. 111, s. 33, *post*.

be no such asylum, or there be a deficiency of room, (*u*) or unless there be some special circumstances by reason whereof such lunatic cannot conveniently be taken to such asylum, (*v*) which deficiency of room or special circumstances shall be stated in the order for the reception of such lunatic into any asylum other than such asylum as aforesaid, or into any registered hospital or licenced house; and no lunatic shall be sent to any registered hospital or house licenced for the reception of lunatics, by virtue of such order, except there be no such asylum, or no such asylum in which he can be received, or there be some special circumstances by reason whereof he cannot be taken thereto, which shall be stated in like manner as aforesaid. (*w*)

No Pauper to be received into any Asylum without a certain Order and Certificate.

LXXIII. No pauper (*x*) shall be received into any asylum, registered hospital, (*y*) or licenced house (*y*) (save under the provisions herein contained with respect to removal of lunatics) (*z*) without an order (*a*) according to the form (*b*) required in the said schedule (F) No. 1, under the hands of one justice, or under the hands of an officiating clergyman, (*c*) and of one of the overseers or the relieving officer of the parish or union from which such pauper is sent as aforesaid, together with such statement of particulars as is contained in the same schedule, nor without a medical certificate according to the form in the said schedule (F) No. 3, signed by one physician, surgeon, or apothecary, (*d*) who shall have personally examined him not more than seven clear days previously to his reception; and every person who receives

(*u*) See s. 53, *ante*, with regard to reserved beds.
(*v*) With respect to contagious or infectious diseases, see s. 53, *ante*.
(*w*) s. 78, *post*.
(*x*) 25 & 26 Vict. c. 111, s. 26, *post*.
(*y*) See 16 & 17 Vict. c. 96, s. 7, *ante*.
(*z*) s. 77, *post*; and s. 82, *post*.
(*a*) See also 25 & 26 Vict. c. 111, ss. 31, 32, 33, *post*.
(*b*) 25 & 26 Vict. c. 111, s. 25, *post*.
(*c*) See *Reg.* v. *Hatfield Peverel* (14 Q. B. 298, 18 L. J. R. (N.S.), M. C. 225), which had reference to 8 & 9 Vict. c. 100, s. 48, now repealed, *ante*.
(*d*) s. 132, *post*; 25 & 26 Vict. c. 111, s. 47, *post*.

any pauper into any asylum without such order and medical certificate (*e*) (save under any of the said provisions) shall be guilty of a misdemeanor. (*f*)

No Person not a Pauper to be received into an Asylum, except under the Provisions of this Act, without an Order and Two Medical Certificates.

LXXIV. No person, not a pauper, (*g*) shall be received into any asylum (save under the provisions herein contained) (*h*) without an order under the hand of some person according to the form in schedule (F) No. 2 to this Act annexed, together with such statement of particulars as is contained in the same schedule, nor without the medical certificate, according to the form and containing the particulars required in schedule (F) No. 3 annexed to this Act, of two persons, each of whom shall be a physician, surgeon, or apothecary, (*i*) and shall not be in partnership with or an assistant to the other, and each of whom shall separately from the other have personally examined the person to whom it relates, not more than seven clear days previously to the reception of such person into such asylum, and such order as aforesaid may be signed before or after the medical certificates or either of them; and every person who receives any person, not a pauper, into any asylum, save under the provisions herein contained, without such order and medical certificates as aforesaid, shall be guilty of a misdemeanor: (*f*) provided always, nevertheless, that any person may, under special circumstances preventing the examination of such person by two medical practitioners as aforesaid, be received into any asylum upon the certificate of one physician, surgeon, or apothecary (*i*) alone,

(*e*) See *Reg.* v. *Minster* (14 Q. B. 349), which had reference to the repealed Act, 8 & 9 Vict. c. 126.

(*f*) ss. 126, 127, *post*.

(*g*) See s. 43, *ante*, and Introduction, *ante*, pp. 78–80; see also 25 & 26 Vict. c. 111, s. 22, *post*; s. 23, *post*; s. 25, *post*; and s. 26, *post*. And it may further be useful to refer to the analogous provisions in 16 & 17 Vict. c. 96, ss. 4, 5, *ante*, with regard to hospitals and licenced houses, and the notes thereon, especially note (*f*) to s. 4, *ante*, p. 265. The remarks in that note will equally apply to the confinement of a private lunatic in a public asylum.

(*h*) s. 68, *ante*.

(*i*) s. 132, *post*, and 25 & 26 Vict. c. 111, s. 47, *post*.

provided that the statement accompanying such order set forth the special circumstances which prevent the examination of such person by two medical practitioners; but in every such case two other such certificates shall, within three clear days after the reception of such patient into such asylum, be signed by two other persons, each of whom shall be a physician, surgeon, or apothecary (*j*) not in partnership with or an assistant to the other, or the physician, surgeon, or apothecary (*j*) who signed the certificate on which the patient was received, and shall within such time, and separately from the other of them, have personally examined the person so received as a lunatic; and any person who, having received any person into any asylum as aforesaid, shall keep or permit such person to remain in such asylum beyond the said period of three clear days, without such further certificates as aforesaid, shall be guilty of a misdemeanor. (*k*)

Medical Certificate to specify Facts upon which Opinion of Insanity has been formed.

LXXV. Every physician, surgeon, and apothecary (*j*) signing any certificate under or for the purposes of this Act, shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is a lunatic, an idiot, or a person of unsound mind, distinguishing in such certificates facts observed by himself from facts communicated to him by others; and no person shall be received into any asylum under any certificate which purports to be founded only upon facts communicated by others. (*l*)

Who not to sign Certificate for Reception of a Patient.

LXXVI. No physician, surgeon, or apothecary (*j*) who, or whose father, brother, son, partner, or assistant, shall sign the order for the reception of a patient, shall sign any certificate for the reception of such patient, (*l*) and no patient shall be received into any asylum upon or under any certificate signed by any medical officer of such asylum. (*m*)

(*j*) See note (*i*) on preceding page.
(*k*) ss. 126, 127, *post*.
(*l*) See s. 122, *post*.
(*m*) s. 55, *ante*.

Power to Two Visitors of any Asylum, being Justices, to order removal of Pauper Lunatics to or from such Asylum.

LXXVII. It shall be lawful for any two of the visitors of any asylum, being justices, (*n*) by an order (*o*) in writing under their hands and seals, (*p*) to order any pauper lunatic chargeable to any parish or union within the county or borough or any county or borough to which such asylum wholly or in part belongs, or to such county, and who may be confined in any other asylum, or in any registered hospital or licenced house, to be removed to such first-mentioned asylum; (*q*) and it shall be lawful for any two of the visitors of any asylum, being justices, in manner aforesaid to order any pauper lunatic to be removed from such asylum to some other asylum, or to some registered hospital or licenced house; but no such lunatic shall be removed as last aforesaid without the consent in writing of two of the Commissioners in Lunacy, except to an asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or the county in some parish of which the lunatic may have been adjudged to be settled, or a registered hospital or licenced house within any such county as aforesaid, or an asylum, registered hospital, or licenced house into which the lunatic can be received under a subsisting contract for the reception of lunatics therein; (*r*) and it shall be lawful for the justices making any such order in and by the same to direct or require any overseer or relieving officer or other officer of the parish, union, or county to which such lunatic is chargeable, or to authorise any other person, to execute the same; and every such order and consent shall be made and given respectively in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licenced house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or

(*n*) See also s. 82, *post*, as well as 8 & 9 Vict. c. 100, ss. 74, 75, *ante*.
(*o*) No form is prescribed for this order.
(*p*) 18 & 19 Vict. c. 105, s. 15, *post*.
(*q*) 18 & 19 Vict. c. 105, s. 8, *post*.
(*r*) s. 78, *post*.

licenced house to which the patient is removed, and such order, with such consent in writing (where such consent is required), shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licenced house to which he is ordered to be removed: provided always, that no person shall be removed under any such order without a medical certificate, (*r*) signed by the medical officer of the asylum, or the medical practitioner, or one of the medical practitioners, keeping, residing in, or visiting the hospital or licenced house from which such person is ordered to be removed, certifying that he is in a fit condition of bodily health to be removed in pursuance of such order; and the superintendent or proprietor of such asylum, hospital, or licenced house shall, at the time of delivering the person ordered to be removed to the overseer, officer, or person having the execution of the order for removal, deliver to such overseer or officer, free of any charge for the same, the certificate of such medical officer, and also a copy (certified under the hand of such superintendent or proprietor to be a true copy) of the order and certificate under which such person was received into and detained in such asylum, hospital, or licenced house, and the said certificate and certified copies, with one duplicate of the order for removal, shall be delivered by such overseer, officer, or person to the superintendent or proprietor of the asylum, hospital, or licenced house to which such person is ordered to be removed, or any other officer of such asylum, hospital or licenced house into whose care such person is delivered. (*s*)

Pauper Lunatics not to be received into any other than the County or Borough Asylum without endorsement of Order by a Visitor, and Orders not compulsory on Hospitals or Licenced Houses.

LXXVIII. Provided always, that no lunatic being a pauper shall be received under any order made by virtue of this Act (*t*) into any asylum, other than an asylum belonging

(*r*) No form is prescribed for this certificate.

(*s*) As to the registry, and notice, of the removal, see s. 93, *post*; and as to the expenses, see s. 120, *post*.

(*t*) s. 67, *ante*; s. 68, *ante*; s. 77, *ante*; and s. 82, *post*. See also 25 & 26 Vict. c. 111, s. 31, 32, 33, *post*.

wholly or in part to the county or borough in which the parish or place from which such lunatic is sent, or the parish in which he is adjudged to be settled, is situate, except there be a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to such asylum, unless such order be endorsed by a visitor of such asylum; and it shall not be compulsory on the superintendent of any registered hospital or the proprietor of any licenced house to receive any lunatic under any such order, except in pursuance of any subsisting contract. (*u*)

Discharge of Lunatics from Asylums.

LXXIX. It shall be lawful for any three of the visitors of any asylum, by writing under their hands and seals, (*v*) to order the discharge (*w*) of any person (*x*) detained in such asylum, whether such person be recovered or not, and also for any two of such visitors, with the advice in writing of the medical officer of such asylum, to discharge (*w*) any person (*x*) detained therein, or to permit any such person (*x*) to be absent from the asylum upon trial for such period as such visitors think fit; and it shall be lawful for such visitors to make such allowance to such last-mentioned person, (*x*) not exceeding what would be the charge for such person (*x*) if in the asylum, which allowance, and no greater sum, shall be charged for him and be payable as if he were actually in the asylum; (*y*) and in case any person (*x*) so allowed to be absent on trial for any period do not return at the expiration of such period, and a medical certificate as to his state of mind, (*z*) certifying that his

(*u*) 18 & 19 Vict. c. 105, s. 8, *post*; and see Introduction, *ante*, pp. 319, 320; and *Reg.* v. *Hatfield Peverel*, 18 L. J. R. (N.S.) M. C. 225, 14 Q. B. 298.

(*v*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*w*) s. 80, *post*. See also s. 81, *post*. As to registry, and notice, of the discharge, see s. 93, *post*.

(*x*) The words "any person," as used in this section, will apparently include lunatics confined under s. 68, *ante*, as well as pauper lunatics under s. 67, *ante*, and lunatics received under s. 43, *ante*.

(*y*) s. 54, *ante*.

(*z*) The General Consolidated Order of the Poor Law Commissioners, issued 24th July, 1847, contains the following article with

detention in an asylum is no longer necessary, be not sent to the visitors, he may, at any time within fourteen days of the expiration of such period, be retaken, as herein provided in the case of an escape. (*a*)

Overseers and Relieving Officers to remove Lunatics upon Notice of discharge, and to be liable to a Penalty for Refusal or wilful Neglect.

LXXX. When the visitors of any asylum shall order a pauper lunatic confined therein to be discharged therefrom, (*b*) it shall be lawful for them, when they shall see occasion, to send notice in writing, signed by their clerk, through the post or otherwise, of their intention to discharge such lunatic, to the overseers of the parish wherein it shall have been adjudged that such lunatic is settled, (*c*) or, if no such adjudication shall have been made, to the overseers of the parish from which such lunatic shall have been sent to

reference to the "Duties of a Medical Officer," viz.:—"Art. 205, No. 3. To give a certificate under his hand in every case to the guardians, or the relieving officer, or the pauper on whom he is attending, of the sickness of such pauper or other cause of his attendance, when required to do so." It appears that this Article will include a certificate as to a lunatic pauper discharged from an asylum upon trial, under 16 & 17 Vict. c. 97, s. 79, if the guardians require the medical officer to give a certificate in such a case. See Glen's Poor Law Board Orders, seventh edition, 1871.

(*a*) s. 88, *post;* s. 93, *post;* and s. 124, *post.*

(*b*) A question arises upon this section, as to whether the term "pauper lunatic" includes a lunatic sent to the asylum under the provisions of s. 68, *ante*, which apply not only to pauper lunatics wandering at large, but also to private lunatics wandering at large, or not under proper care, or ill-treated (Introduction, *ante*, pp. 80–82). There seems no reason why the overseers or relieving officer should be called upon to remove from the asylum a private lunatic who may have been sent thither under s. 68, and who may be discharged on his recovery; but if (having regard especially to s. 95 and the proviso to s. 94, *post*, as well as s. 118, *post*, and the interpretation clause, s. 132, *post*) such cases should be considered as falling within the terms of s. 80, it will be observed that the power conferred upon the visitors under that enactment is discretionary, and that they are not required to communicate with the overseers or relieving officer, unless they shall see occasion to do so. On the other hand, it seems doubtful whether the provisions of s. 80 will apply to cases occurring under the next section (see s. 81; and note thereon, *post*).

(*c*) s. 97, *post.*

such asylum, (*d*) unless such lunatic shall be chargeable to the common fund of any union, (*e*) and in any such last-mentioned case to some one relieving officer of such union; and upon receipt of such notice the overseers or relieving officers respectively shall cause such lunatic, upon his discharge, to be forthwith removed (*f*) to their parish, or to the workhouse of the union at the cost and charge of their parish or of the common fund of the union, as the case shall require; (*g*) and any overseer or relieving officer who shall refuse or wilfully neglect to remove such lunatic from the said asylum within the space of seven days after such notice shall have been sent to him shall be guilty of an offence against this Act, and shall forfeit for such offence any sum not exceeding ten pounds, to be recovered as other penalties imposed by this Act are recoverable. (*h*)

Visitors may discharge a Lunatic on the undertaking of a Relative or Friend that he shall no longer be chargeable, and shall be taken care of.

LXXXI. Where application is made to the committee of visitors of any asylum by any relative or friend of a pauper lunatic confined therein requiring that he may be delivered over to the custody and care of such relative or friend, it shall be lawful for any two of the visitors aforesaid, if they think fit, and upon the undertaking in writing of such relative or friend to the satisfaction of such visitors that such lunatic shall be no longer chargeable to any union, parish, or county, and shall be properly taken care of, and shall be prevented from doing injury to himself or others, to discharge such lunatic. (*i*)

(*d*) s. 95. *post*. If the pauper has been made chargeable to the county under s. 98, this notice is, apparently, to be sent to the overseers of the parish from which he was sent to the asylum, and not to the clerk of the peace; though "the expenses attending the discharge or removal" are to be borne by the county under s. 20, *post*.

(*e*) s. 102, *post*. See also 24 & 25 Vict. c. 55, s. 6, *post*.

(*f*) See Circular of the Poor Law Board, 27th February, 1857, Appendix, *post*.

(*g*) See s. 120, *post*; which, however, in the case of a lunatic chargeable to a county, requires that "the expenses attending the discharge or removal" shall be borne by the county.

(*h*) ss. 126, 127, *post*.

(*i*) As to the registry of this discharge, and notification to the Commissioners in Lunacy, see s. 93, *post*. It seems proper that notice

Commissioners in Lunacy may order Removal of Lunatics.

LXXXII. It shall be lawful for the Commissioners in Lunacy, or any two of them, (*j*) by writing under their hands and seals, to order and direct the removal of any lunatic from any asylum, registered hospital, or licenced house; and every such order shall be made in duplicate, and one duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licenced house from which the patient is removed, and the other shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or licenced house to which the patient is removed, and such order shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, hospital, or licenced house to which he is ordered to be removed. (*k*)

The Person who signed the Order for the Reception of a Private Patient may order his Discharge or Removal.

LXXXIII. If and when any person (*l*) who signed the order (*m*) on which any patient (not being a pauper) was received into any asylum (whether or not such patient have since been removed under any order made under this Act or otherwise to any other asylum) shall by writing under his hand direct that such patient be discharged or removed, then and in such case such patient shall forthwith (*n*) be discharged or removed as the person who signed the order for his reception may direct. (*o*)

Provision where the Person who signed the Order for Reception is dead or incapable of acting.

LXXXIV. If the person who signed the order on which any patient (not being a pauper) was received into any asy-

should also be sent to the guardians or overseers, or clerk of the peace; though there is no express provision on that point, unless the first part of s. 80 may be considered to apply. It must be observed, however, that the provisions of that section seem to be confined to a different class of cases.

(*j*) See also s. 77, *ante*, as well as 8 & 9 Vict. c. 100, s. 74, 75, *ante*.

(*k*) But see s. 78, *ante*.

(*l*) See also s. 84, *post*.

(*m*) s. 74, *ante*.

(*n*) But see s. 85, *post*.

(*o*) As to registry, and notice, of the discharge, or removal, see s. 93, *post*.

lum be dead, or be incapable, by reason of insanity, absence from England, or otherwise, of giving an order for the discharge or removal of such patient, (*p*) then the person who made the last payment on account of such patient, or the husband or wife, or (if there be no husband, or the husband or wife be incapable as aforesaid) the father, or (if there be no father, or he be incapable as aforesaid) the mother of such patient, or if there be no mother, or she be incapable as aforesaid, then any one of the nearest of kin for the time being of such patient, may, by writing under his or her hand, give such direction as aforesaid (*p*) for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed accordingly. (*q*)

Patient not to be discharged where certified to be dangerous without Visitors' consent.—Not to prevent Transfer under control of an Attendant.

LXXXV. Provided always, that no patient shall be discharged under either of the two last foregoing provisions (*r*) if the medical officer of the asylum in which such patient is certify in writing under his hand that in the opinion of such medical officer such patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless two of the visitors of such asylum, being justices, shall, after such certificate shall have been produced to them, give their consent in writing to such patient's being so discharged; provided that nothing in this enactment shall prevent the transfer of any patient so certified to be dangerous and unfit to be at large from any asylum to any other asylum, or to any registered hospital or licenced house, but in such case the patient shall be placed under the control of an attendant belonging to the asylum, hospital, or house from or to which he is about to be removed for the purpose of such removal, and shall remain under such control until such time as the removal has been duly effected.

Provision authorising Transfer of private and single Patients.

LXXXVI. Any person, having authority (*s*) to order the

(*p*) s. 83, *ante*.
(*q*) But see s. 85, *post*.
(*r*) ss. 83, 84, *ante*.
(*s*) As to asylums, see ss. 83, 84, *ante*; as to hospitals and li-

discharge of any patient (not being a pauper) from any asylum, registered hospital, or licenced house, or of any single patient, may, with the previous consent in writing of two of the Commissioners, direct, by an order in writing under his hand, the removal of such patient to any asylum, registered hospital, or licenced house, or to the care or charge of any person mentioned or named in such order; and every such order and consent shall be made and given respectively in duplicate and one of the duplicates shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house from which or the person from whose care or charge the patient is ordered to be removed, and the other duplicate shall be delivered to and left with the superintendent or proprietor of the asylum, hospital, or house into which or the person into whose care or charge the patient is ordered to be removed; and such order for removal, together with such consent in writing, shall be a sufficient authority for the removal of such patient, and also for his reception into the asylum, registered hospital, or licenced house into which or by the person into whose care or charge he is ordered to be removed: provided always, that a copy of the order and certificates upon which such patient was received into the asylum, hospital, or house, from which he is removed, or as a single patient, by the person from whose care he is removed, certified under the hand of the superintendent or proprietor of such asylum, hospital, or house, or of such person as last aforesaid, to be a true copy, shall be furnished by him free of expense, and shall be delivered, with one duplicate of the said order of removal and consent, to the superintendent or proprietor of the asylum, hospital, or house to which, or to the person to whose care or charge such patient is removed. (*t*)

Orders and Medical Certificates may be amended.

LXXXVII. If after the reception of any lunatic into any asylum it appear that the order or the medical certificate, or (if more than one) both or either of the medical certificates upon which he was received, is or are in any respect incor-

cenced houses, see 8 & 9 Vict. c. 100, ss. 72, 73, and the note thereon, *ante;* and as to single patients, see 16 & 17 Vict. c. 96, s. 17, *ante.*

(*t*) See 16 & 17 Vict. c. 96, s. 20; and the note thereon, *ante.*

rect or defective, (*u*) such order and medical certificate or certificates may be amended by the person or persons signing the same at any time within fourteen days next after the reception of such lunatic; provided, nevertheless, that no such amendment shall have any force or effect unless the same shall receive the sanction of one or more of the Commissioners in Lunacy. (*v*)

Persons received into Asylums, etc., may be detained till Removal or Discharge, and in case of Escape may be retaken within Fourteen Days.

LXXXVIII. Every person received into any asylum, registered hospital, or licenced house under such order as is required by this Act, accompanied by the requisite medical certificate, (*w*) may be detained therein until he be removed or discharged as authorised by this Act, and in case of escape may, by virtue of such order and certificate (*w*) or certificates, (*w*) be retaken at any time within fourteen days after his escape by the superintendent or proprietor of such asylum, hospital, or house, or any officer or servant belonging thereto, or any other person authorised in writing in this behalf by such superintendent or proprietor, and conveyed to and received and detained in such asylum, hospital, or house. (*x*)

Every Clerk receiving a Lunatic into an Asylum to make an Entry thereof, and to transmit a Copy of the Order and Certificate of Medical Officer of the Asylum to Commissioners in Lunacy.

LXXXIX. The clerk of every asylum shall, immediately on the admission of any person as a lunatic into such asylum, make an entry with respect to such lunatic in a book to be kept for that purpose, to be called "The Register of Patients," according to the form and containing the particulars specified in the schedule (G) No. 1 to this Act, except

(*u*) See also s. 122, *post*.

(*v*) 25 & 26 Vict. c. 111, s. 27, *post*. See Introduction, *ante*, 309; and also, *ante*, pp. 68-73.

(*w*) It will be observed that in the first clause of the sentence, "certificate" is alone mentioned; whilst in the second clause, the expression used is, "certificate or certificates."

(*x*) See also s. 93, *post*; and s. 124, *post*.

as to the forms of disorders, the entry as to which is to be supplied by the medical officer of the asylum within one month after the admission of the patient, and after the second and before the end of the seventh clear day from the day of the admission of any person as a lunatic into any asylum shall transmit to the Commissioners in Lunacy a copy of the order and statement and certificate or certificates on which such lunatic has been so received, together with a statement, to be made and signed by the medical officer of the asylum, not sooner than two clear days after such admission according to the form in the said schedule (F) No. 4 to this Act annexed;(*y*) and any clerk omitting so to make such entry, or to transmit such copy and statement within the time aforesaid, and every medical officer omitting to make or sign such statement, shall for every such offence forfeit any sum not exceeding twenty pounds.(*z*)

Weekly Journal and Case Book to be kept in every Asylum.

XC. In every asylum the medical officer thereof shall once in every week enter in a book to be kept for that purpose, to be called "The Medical Journal," a statement according to the form in the said schedule (G) No. 3 showing the number of patients of each sex then in such asylums, the christian name and surname of every patient who is or has been under restraint or in seclusion since the last entry, and when and for what period and reasons, and in case of restraint by what means, and the christian name and surname of every patient under medical treatment, and for what, if any, bodily disorder, and every death, injury, and violence which shall have happened to or affected any patient since the then last preceding entry, and shall also enter into a book to be called "The Case Book,"(*a*) as soon as may be after the admission of any patient, the mental state and bodily condition of every

(*y*) 25 & 26 Vict. c. 111, s. 28, *post;* which, however, does not apply to pauper patients.

(*z*) ss. 126, 127, *post*.

(*a*) The Commissioners in Lunacy have not issued any order with regard to the "Case Book" in asylums; and, indeed, it does not appear that they have any authority to do so. The power conferred upon them by 8 & 9 Vict. c. 100, s. 60, *ante*, is confined to hospitals and licenced houses; and so, likewise, is their order of 16th March, 1874. See Introduction, *ante*, p. 65.

patient at the time of his admission, and also the history from time to time of his case whilst he shall continue in the asylum; and such books shall from time to time be regularly laid before the visitors for their inspection and signature,(*b*) and every medical officer omitting to make such entries or any of them, shall for every such offence forfeit any sum not exceeding twenty pounds.(*c*)

Copies of Entries made by Commissioners visiting Asylums to be sent to the Office of Commissioners.

XCI. The clerk of every asylum shall within three days after every visit to such asylum of two or more of the Commissioners in Lunacy, transmit to the office of such Commissioners a true and perfect copy of any entries of any remarks or observations made by such Visiting Commissioners in any of the books of such asylum,(*d*) and every such clerk omitting to transmit as aforesaid any such copy shall for every such offence forfeit any sum not exceeding ten pounds.(*e*)

In case of the Death of a Lunatic the cause of Death to be stated, and sent to the Registrar of Deaths, the Commissioners in Lunacy, and Relieving Officer or Overseer.

XCII. In case of the death of any patient in any asylum (*f*) a notice and statement according to the form in schedule (F) No. 5 of the death and cause of the death of such patient, and the name of any person or persons who was or were present at the death, shall be drawn up and signed by the clerk and medical officer of such asylum, and a copy thereof shall be by the clerk transmitted to the registrar of deaths (*g*) for the district and to the Commis-

(*b*) s. 61, *ante*.

(*c*) ss. 126, 127, *post*.

(*d*) 8 & 9 Vict. c. 100. s. 110, *ante*. See also 25 & 26 Vict. c. 111. s. 30, *post*; which empowers "any one or more of the Commissioners" to visit any asylum. Although a single Commissioner so visiting is invested with the same powers as "two or more Commissioners," it does not appear that the clerk of the asylum is required by the above enactment, s. 91, to transmit to the Commissioners in Lunacy a copy of the entries made by such single Commissioner.

(*e*) ss. 126, 127, *post*.

(*f*) As to the record of the death, see s. 94, *post*; and as to notice to the relatives, see 25 & 26 Vict. c. 111, s. 25, *post*, and to the Coroner, s. 44 of that Act, *post*.

(*g*) See 6 & 7 Wm. iv. c. 86; 7 Wm. iv. and 1 Vict. 22; 21 & 22

sioners in Lunacy within forty-eight hours of the death of such patient, and also to the relieving officer or the overseers of the union or parish to which such lunatic (if a pauper)

Vict. c. 25, and 37 & 38 Vict. c. 88. The last-mentioned Act contains the following provisions :—

"10. When a person dies in a house after the commencement of this Act, it shall be the duty of the nearest relatives of the deceased present at the death, or in attendance during the last illness of the deceased, and in default of such relatives, of every other relative of the deceased dwelling or being in the same sub-district as the deceased, and in default of such relatives, of each person present at the death, and of the occupier of the house in which, to his knowledge, the death took place, and in default of the persons herein-before in this section mentioned, of each inmate of such house, and of the person causing the body of the deceased person to be buried, to give, to the best of his knowledge and belief, to the registrar, within the five days next following the days of such death, information of the particulars required to be registered concerning such death, and in the presence of the registrar to sign the register.

"12. If a person required to give information concerning any death sends to the registrar a written notice of the occurrence of the death, accompanied by such medical certificate of the cause of death as is required by this Act to be delivered to a registrar, the information of the particulars required by the Births and Deaths Registration Acts, 1836 to 1874, to be registered concerning the death need not be given within the said five days, but shall, notwithstanding such notice, be given within fourteen days next after the day of the death by the person giving such notice, or some other person required by this Act to give the information.

"14. It shall be the duty of the registrar to inform himself carefully of every death which happens within his sub-district, and upon receiving personally from the informant at any time within twelve months after the date of any death, or of the finding of any dead body, information of the particulars required to be registered concerning the death from any person required by this Act to give the same, forthwith in the prescribed form and manner to register the death and the said particulars (if not previously registered), without fee or reward from the informant, except that if, in pursuance of a written requisition, he registers the same at the residence of the person making such requisition, or at the house where the deceased died, he shall, unless the death took place in a public institution, be entitled to the appointed fee."

And s. 48 declares that the term "public institution," as used in this Act, means, amongst other things, a lunatic asylum; that the term "house" includes a "public institution" as so defined; and that the term "occupier" includes the governor, keeper, master, matron, superintendent, or the chief resident officer of every "public institution." Where the deceased has been attended in his last illness by a medical man, the following provision will apply :—

"20 (2). In case of the death of any person who has been attended during his last illness by a registered medical practitioner, that prac-

was chargeable, (*h*) and if not a pauper to the person who shall have signed the order for the admission of the lunatic, or who made the last payment on account of such lunatic; and every clerk or medical officer who neglects or omits to draw up, sign, or transmit such statement as aforesaid, within the time aforesaid, shall respectively forfeit and pay any sum not exceeding twenty pounds. (*i*)

Entries to be made of Deaths, Discharges, and Removals, and Notice given to the Commissioners in case of the Discharge, Removal, Escape, and Recapture of every Lunatic.

XCIII. The clerk of every asylum shall, within three clear days after the death, (*j*) discharge, (*k*) or removal (*k*) of any patient, make an entry thereof in the said Register of Patients, and also in a book to be kept for that purpose according to the form and containing the particulars in the schedule (G) No. 2 to this Act, and shall also, within three clear days after the discharge, (*k*) removal, (*k*) escape, (*l*) or recapture (*l*) of any patient, transmit a written notice of

titioner shall sign and give to some person required by this Act to give information concerning the death a certificate stating to the best of his knowledge and belief the cause of death, and such person shall, upon giving information concerning the death or giving notice of the death, deliver that certificate to the registrar, and the cause of death as stated in that certificate shall be entered in the register, together with the name of the certifying medical practitioner. If any person to whom a medical certificate is given by a registered medical practitioner in pursuance of this section fails to deliver that certificate to the registrar, he shall be liable to a penalty not exceeding forty shillings."

With respect to the registry of a birth, see 37 & 38 Vict. c. 88, ss. 1–8. The fees payable to the registrar under 6 & 7 Wm. iv. c. 86, s. 29, are apparently chargeable to the parish in which the asylum is situated; and this point does not seem to be affected by the provisions of 24 & 25 Vict. c. 55, s. 6, *post*.

(*h*) It seems proper that notice should be sent to the clerk of the peace, if the deceased was chargeable to a county; but there is no direction on the subject. See s. 120, *post*, and the note thereon as to the burial.

(*i*) ss. 126, 127, *post*.

(*j*) s. 92, *ante*.

(*k*) ss. 77–86, *ante*; 18 & 19 Vict. c. 105, s. 8, *post*. As to the expenses of the discharge or removal, and also of the burial, see s. 120, *post*, and the notes thereon.

(*l*) s. 88, *ante*. See also s. 79, under which a patient may be recaptured, if he do not return at the end of an authorised period of absence.

such discharge or removal, according to the form in the said schedule (F) No. 5, or of such escape or recapture, to the Commissioners in Lunacy; and every such clerk who neglects or omits to make such entry as aforesaid, or transmit such notice as aforesaid within the time aforesaid, shall forfeit and pay any sum not exceeding ten pounds; (*m*) and every such clerk who shall knowingly and wilfully in such entry untruly set forth any of the particulars required shall be guilty of a misdemeanor. (*m*)

AS TO EXPENSE OF MAINTENANCE AND REMOVAL, ETC., OF PAUPER AND OTHER LUNATICS.

How Justices are to proceed where it appears to them that the Lunatic has property applicable to his Maintenance.

XCIV. Where any lunatic shall be sent to an asylum, registered hospital, or licenced house, under any order made by virtue of the authority hereinbefore given to two justices, (*n*) if it appear to such justices (*o*) that such lunatic hath an estate applicable to his maintenance, and more than sufficient to maintain his family (if any), it shall be lawful for such justices (*o*) to make an application in writing under their hands and seals (*p*) to the nearest known relative or friend of such lunatic, for the payment of the charges of the examination, removal, lodging, maintenance, clothing,

(*m*) ss. 126, 127, *post*.

(*n*) s. 68, *ante*. It will be observed that s. 94 is confined to cases in which an order for the admission of the lunatic has been made by *two* justices; *i.e.*, cases of lunatics not under proper care and control, and cases of lunatics cruelly treated or neglected (see Introduction, *ante*, pp. 80–82). It does not apply to the cases of lunatics wandering at large, admitted by order of *one* justice under s. 68; nor to the cases of pauper lunatics dealt with under s. 67; as to both of which, see s. 104, *post*. In any case falling within s. 94, if the lunatic has sufficient means for his own support, beyond the maintenance of his family, the justices are empowered to take proceedings to secure the application of his property to that purpose; but in the meanwhile he is to be chargeable to the poor rates, though reimbursement may be afterwards obtained. The section can only be acted upon during the lifetime of the lunatic.

(*o*) The application must be made by the same justices who made the order for admission; but the subsequent proceedings may be taken by "the same or any other justices."

(*p*) 18 & 19 Vict. c. 105, s. 15, *post*.

medicine, and care of such lunatic; and in case such charges be not paid within one month after such application, it shall be lawful for the same or any other justices, (*q*) by an order under their hands and seals, (*r*) to direct a relieving officer or overseer of the parish from which such lunatic shall be sent, or where any property of such lunatic shall be, to seize so much of the money, and to seize and sell so much of the goods and chattels, and take and receive so much of the rents and profits of the lands and tenements of such lunatic, and of any other income of such lunatic, as may be necessary to pay the charges of the examination, removal, lodging, maintenance, clothing, medicine, and care of such lunatic, accounting for the same to the same or any other justices, (*q*) such charges having been first proved to the satisfaction of the said justices, (*q*) and the amount set forth in such order; and if any trustee or other person having the possession, custody, or charge of any property of such lunatic, or if the Governor and Company of the Bank of England, or any other body or person having in their or his hands any stock, interest, dividend, or annuity belonging or due to such lunatic, pay the whole or any part thereof to any overseer or relieving officer, to defray the charges set forth in such order, the receipt of such overseer or relieving officer shall be a good discharge to such trustee, governor and company, or other body or person as aforesaid: provided always, that, notwithstanding it may appear to the said justices (*s*) that such lunatic hath such estate as aforesaid, it shall be lawful for such justices, (*s*) in the meantime and until such charges as aforesaid shall be paid, in pursuance of such application or order as aforesaid, to make an order on the guardians of the union or parish, or the overseers of the parish, from which such lunatic shall be sent for confinement, for payment of the charges of the (*t*) removal, lodging, maintenance, clothing, medicine,

(*q*) See note (*o*) on preceding page.

(*r*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*s*) "The said justices," here referred to, appear to be the justices first mentioned in the enactment, and it would therefore seem that the order for payment by the guardians, or overseers, must be made by the same justices who made the order for admission. But see also s. 118, *post*.

(*t*) The charges of the "examination" are not mentioned here. See, however, s. 69, *ante*.

and care of such lunatic; (*u*) and such guardians or overseers shall be reimbursed such charges under any order to be made as aforesaid for payment of such charges, out of the property of the lunatic, unless the same be sooner repaid by some relative or friend of such lunatic in pursuance of such application as aforesaid.

Every Pauper Lunatic to be chargeable to the Parish from which he is sent till otherwise adjudged.

XCV. When any pauper lunatic (*v*) is confined under the provisions of this Act (*v*) he shall, for the purposes of this Act, be chargeable (*w*) to the parish (*x*) from which, or at the instance of some officer or officiating clergyman of which, he has been sent, unless and until such parish shall have established, under the provisions herein contained, that such lunatic is settled in some other parish, or that it cannot be ascertained in what parish such lunatic is settled; (*y*) and every pauper lunatic who is chargeable to any parish shall, whilst he resides in an asylum, registered hospital, or licenced house, be deemed for the purposes of his settlement to be residing in the parish to which he is chargeable. (*z*)

Justices to make an Order upon the Officers of Unions and Parishes for maintenance of Lunatics.

XCVI. It shall be lawful for the justice by whom any pauper lunatic is sent to an asylum, registered hospital, or licenced house under the powers of this Act, (*a*) or for any two justices (*b*) of the county or borough in which the asylum, registered hospital, or licenced house in which any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or for any two justices (*b*) being visitors of such asylum or licenced house, to make an order (*c*) upon the guardians of the union (*d*) or parish or the overseers of the parish (if not in a union or

(*u*) See also 24 & 25 Vict. c. 55, s. 6, *post*.
(*v*) See also s. 118, *post*; and s. 132, *post*.
(*w*) See *Reg.* v. *Winsford*, 18 L. J. R. (N.S.) M. C. 231; and *Reg.* v. *Minster*, 14 Q. B. 349 (under 8 & 9 Vict. c. 126).
(*x*) 24 & 25 Vict. c. 55, s. 6, *post*.
(*y*) ss. 97, 98, 99, *post*.
(*z*) 12 & 13 Vict. c. 103, s. 4, *post*.
(*a*) See also s. 118, *post*; and s. 132, *post*.
(*b*) s. 100, *post*.
(*c*) 18 & 19 Vict. c. 105, s. 15, *post*.
(*d*) See also 24 & 25 Vict. c. 55, s. 6, *post*.

under a board of guardians) from which, or at the instance of any officer or officiating clergyman of which, such lunatic is or has been sent for confinement, for payment to the treasurer, officer, or proprietor of the asylum, registered hospital, or licenced house of the reasonable charges of the lodging, maintenance, medicine, clothing, and care of such lunatic in such asylum, (*e*) hospital, (*e*) or house, (*e*) and any such order may be retrospective (*f*) or prospective, or partly retrospective (*f*) and partly prospective; and the guardians, or overseers on whom such order (*g*) shall be made shall (*h*) from time to time pay to the said treasurer, officer, or proprietor the charges aforesaid. (*i*)

Two Justices may inquire into and adjudge the Settlement of a Lunatic, and order Payment of Maintenance, etc., accordingly.

XCVII. It shall be lawful for any two justices for the county or borough in which any asylum, registered hospital, or licenced house in which any pauper lunatic (*j*) is or has been confined is situate, or to which such asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, at any time (*k*) to inquire into the last legal settlement of such pauper lunatic, (*l*) and if satisfactory evidence can be obtained as to such settlement in any parish, such justices (*m*) shall, by order (*n*) under their

(*e*) See also s. 101, *post*. As to the charges in asylums, see s. 54, *ante*; and as to hospitals and licenced houses, see s. 78, *ante*, and *Reg.* v. *Hatfield Peverel*, 18 L. J. R. (N.S.) M. C. 225; 14 Q. B. 298.

(*f*) See 22 & 23 Vict. c. 49, s. 1, *post*. It seems doubtful how far that Act may operate to limit the time over which the "retrospective" order may extend.

(*g*) See also s. 103, *post*.

(*h*) s. 121, *post*.

(*i*) An order made under this section cannot be appealed against: the right of appeal under s. 108 is confined to orders adjudicating the settlement under s. 97, *post*; and it was held by the Court (Blackburn, J., dissenting) that s. 128 (*post*) does not apply to an interim order under s. 96, and does not extend to guardians or overseers. *Kettering Union* v. *Northampton Asylum*, 34 L. J. R. (N.S.) 198; 6 B. & S. 653; 13 L. T. (N.S.) 199; 11 Jur. (N.S.) 999.

(*j*) See also s. 118, *post*, and s. 132, *post*.

(*k*) As to inquiry after discharge: *Reg.* v. *Wolverhampton*, 14 Q. B. 318 (under 8 & 9 Vict. c. 126).

(*l*) s. 119, *post*.

(*m*) s. 100, *post*.

(*n*) *Reg.* v. *Tyrrwhitt*, 17 L. J. R. (N.S.) M. C. 141; *Reg.* v. *Rhyddian*, 19 L. J. R. (N.S.) M. C. 110 (under 8 & 9 Vict. c. 126); *Reg.* v. *Liverpool*, 23 L. J. R. (N.S.) M. C. 137; and see also s. 113, and note thereon, *post*.

hands and seals, (*o*) adjudge such settlement accordingly, and order the guardians of the union (*p*) to which the parish in which such lunatic is adjudged to be settled belongs, or of such parish (*q*) in case such parish (*q*) be in a union (*p*) or be under a board of guardians, and if not then the overseers of such parish, to pay (*r*) to the guardians of any union (*s*) or parish, or the overseers of any parish, all expenses incurred by or on behalf of such union or parish in or about the examination (*t*) of such lunatic, and the bringing him before a justice or justices, and his conveyance to the asylum, hospital, or house, (*u*) and of (*v*) all monies paid (*w*) by such last-mentioned guardians or overseers to the treasurer, officer, or proprietor of the asylum, hospital, or house, (*u*) for the lodging, maintenance, medicine, clothing, and care of such lunatic, and incurred (*w*) within twelve calendar months (*x*) previous

(*o*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*p*) See also 24 & 25 Vict. c. 55, ss. 6, 7, *post*.

(*q*) *In Reg.* v. *Bramley*, 31 L. J. R. (N.S.) M. C. 11; 8 Jur. (N.S.) 209; 1 B. & S. 732, it was held by the Court of Queen's Bench, that where the settlement of a pauper lunatic is in a parish included in a Gilbert's Union, formed under 22 Geo. iii. c. 83, the order for maintenance was properly made, under 16 & 17 Vict. c. 97, s. 97, on the guardians of that union; but this decision was reversed in the Exchequer Chamber, in which it was held that the order should have been made on the guardian of the particular parish in which the pauper was adjudged to be settled, and not on the guardians of the union.—*Leatham* v. *Bolton-le-Sands*, 35 L. J. R. (N.S.) M. C. 62, 13 L. T. (N.S.) 218. The judgment in this case, however, is now of no importance, all the Gilbert's Unions having been dissolved under 31 & 32 Vict. c. 122, s. 4, passed on 31st July, 1868.

(*r*) As to statement of sums to be paid: *Reg.* v. *JJ. of Cornwall*, 14 L. J. R. (N.S.) M. C. 46 (under 9 Geo. iv, c. 40); *Reg.* v. *Hatfield Peverel*, 14 Q. B. 298, 18 L. J. R. (N.S.) M. C. 225 (under 8 & 9 Vict. c. 100 and c. 126).

(*s*) Where both parishes are in the same union: *Reg.* v. *Ardsley*, 19 L. J. R. (N.S.) M. C. 133 (under 8 & 9 Vict. c. 126).

(*t*) The Poor Law Board expressed an opinion that this word refers solely to the "examination" as to the alleged lunacy and propriety of confinement, and does not include any inquiry into the settlement ("Official Circular," 1856, No. 53, (N.S.) p. 25).

(*u*) *St. Pancras* v. *St. Marylebone*, 16 Q. B. 973 (under 8 & 9 Vict. c. 126).

(*v*) The word "of" is evidently inserted by mistake; and the sentence must be read as if that word were omitted.

(*w*) *Reg.* v. *Minster*, 14 Q. B. 349 (under 8 & 9 Vict. c. 126).

(*x*) This limitation of time applies only to the monies paid and incurred for the lodging, maintenance, etc., and not to the expenses previously mentioned. *Reg.* v. *Wolverhampton*, 14 Q. B. 318; *Reg.* v. *Winster*, 14 Q. B. 344 (under 8 & 9 Vict. c. 126).

to the date of such order, and, if such lunatic is still in confinement, also to pay (*y*) to the treasurer, officer, or proprietor of the asylum, hospital, or house the reasonable charges of the future lodging, maintenance, medicine, clothing, and care of such lunatic; (*z*) and the guardians or overseers on whom any such order (*a*) is made shall (*b*) immediately pay to the guardians or overseers to whom the same are ordered to be paid the amount of the expenses and monies by such order directed to be paid to them, and from time to time pay to the said treasurer, officer, or proprietor of the asylum, hospital, or house the future charges aforesaid. (*c*)

(*y*) As to statement of sums to be paid: *Reg.* v. *JJ. of Cornwall*, 14 L. J. R. (N.S.) M. C. 46 (under 9 Geo. iv. c. 40); *Reg.* v. *Hatfield Peverel*, 14 Q. B. 298, 81 L. J. R. (N.S.) M. C. 225 (under 8 & 9 Vict. c. 100 and c. 126).

(*z*) See also s. 101, *post*. As to the charges in asylums, see s. 54, *ante;* and as to hospitals and licenced houses, see s. 78, *ante*, and *Reg.* v. *Hatfield Peverel*, 18 L. J. R. (N.S.) M. C. 225; 14 Q. B. 298.

(*a*) See also s. 103, *post*. As to appeal, see ss. 106-119, *post*.

(*b*) s. 121, *post*.

(*c*) The following cases have been decided under this section:—

Jurisdiction of Justices:—A justice of a borough not having a quarter session has no jurisdiction under s. 67 of 16 & 17 Vict. c. 97, to send a pauper lunatic to an asylum, and this by reason of the meaning assigned to the word "borough" by the interpretation clause, s. 132. The jurisdiction of justices under s. 97. to adjudge the settlement of a pauper lunatic and make an order for his maintenance, attaches where he is *de facto* confined in an asylum; and their order is not invalidated by the fact that he was sent there by a justice who had no jurisdiction.—*Per* Wightman and Mellor, JJ.; Crompton, J., dissentiente. *Reg.* v. *Faversham*, 31 L. J. R. (N.S.) M. C. 116; 6 L. T. (N.S.) 415; 2 B. & S. 275.

Direction of Order:—An order of justices directed to the guardians and their clerk, but ordering the clerk to pay, is a sufficient order on the guardians under this section. An order adjudicating the settlement of a pauper lunatic, under 16 & 17 Vict. c. 97, s. 97, cannot be objected to on the ground of an insufficient recital of an order sending the lunatic to an asylum. The jurisdiction of the justices attaches on the *de facto* confinement of the individual as a pauper lunatic; and the order for admission to the asylum will be presumed to be good until it is shown to be bad.—*Reg.* v. *Crediton*, 31 L. T. 114; 1 E. B. & E. 231; 4 Jur. (N.S.) 926; 27 L. J. R. (N.S.) M. C. 265.

Asylum in Borough—Jurisdiction of County Sessions:—*Reg.* v. *Warwickshire JJ.* (See note to s. 108, *post*.)

Unemancipated Son in Asylum—Father afterwards breaking his Residence.—A boy, eighteen years of age, having resided, unemancipated, with his father for more than five years in A., a parish in the S. Union, became insane, and was removed as a pauper lunatic to an asylum,

If Settlement cannot be ascertained, a Pauper Lunatic may be made chargeable to the County.

XCVIII. If any pauper lunatic be not settled in the

the expense of his maintenance, etc., being paid by the S. Union. After three years, the lunatic still being in the asylum, the father removed altogether from A., upon which an order of justices was made under section 97 of 16 & 17 Vict. c. 97, adjudging the lunatic to be settled in the parish of G. (the place of his father's settlement), and directing that parish to pay the cost of his maintenance, etc.; but it was held that the order was invalid, and that the costs of maintenance ought still to be borne by the S. Union, under section 102.—*Reg.* v. *St. Giles-in-the-Fields*, 30 L. J. R. (N.S.) M. C. 12; 3 L. T. (N.S.) 292.

Lunatic Wife living apart from her Husband.—Where a woman who is residing separate from her husband, and in a different parish, is sent to an asylum as a pauper lunatic under 16 & 17 Vict. c. 97, the order for her maintenance is properly made on the parish of her husband's settlement under section 97, and ought not to be made under section 102 on the union comprising the parish from which the husband may be irremovable.—*Reg.* v. *East Retford*, 3 B. & S. 122; 32 L. J. R. (N.S.) M. C. 17; S. C. nom. *Reg.* v. *St. Clement Danes*, 7 L. T. (N.S.) 315.

Lunatic Wife—Order of Maintenance.—The maintenance of a wife in a lunatic asylum at the cost of a parish is relief to her husband under 4 & 5 Wm. iv. c. 76, s. 56; and the time during which she is so maintained must therefore be deducted in computing the period of the husband's residence, under 9 & 10 Vict. c. 66, s. 1. Where, therefore, a man had resided for more than five years in a parish not in a union, but less than five years after deducting the time during which his wife had been confined in an asylum, it was held that he was not irremovable by reason of residence, and that, consequently, on her being sent again to the asylum, the order for her maintenance could not lawfully have been made on the parish of his residence under s. 102 of the present Act, but was properly made on the parish of his settlement under s. 97.—*Reg.* v. *St. George, Bloomsbury*, 32 L. J. R. (N.S.) M. C. 217; 4 B. & S. 108.

Irremovability—Breach of Residence.—A domestic servant, who had acquired a status of irremovability by residence, having become insane, was taken from her master's house to the residence of her parents, in another union. Her wages were paid in full, and her master had no intention of receiving her back. After staying with her parents for one night, she was sent to the workhouse of the union in which they were residing, and thence to the asylum:—*Held*, that the removal of the lunatic from the parish in which she had been residing in her master's house did not constitute a break in her residence in that parish, so as to deprive her of her status of irremovability, and that the order for her maintenance in the asylum ought, therefore, to have been made, under s. 102, on the union comprising that parish, and not under s. 97, on the union comprising the parish of her settlement.—*Reg.* v. *Whitby Union*, L. R. 5 Q. B. 325; 39 L. J. R. (N.S.) M. C. 97; 22 L. T. (N.S.) 336.

parish by (*d*) which, or at the instance of some officer or officiating clergyman of which, he is sent to any asylum, registered hospital, or licenced house, and it cannot be ascertained in what parish such pauper lunatic is settled, (*e*) and if a relieving officer of such first-mentioned parish, or of the union in which the same is situate, or the overseers of such first-mentioned parish, shall give ten days' notice to the clerk of the peace (*f*) of the county in which such lunatic was found, to appear for such county before two justices thereof, at a time and place to be appointed in such notice, it shall be lawful for such two justices, or any two or more justices of such county, upon the appearance of such clerk of the peace, or any one on his behalf, or, in case of his non-appearance, upon proof of his having been served with such notice, to inquire into the circumstances of the case, and to adjudge such pauper lunatic to be chargeable to such county, and to order (*g*) the treasurer of such county to pay to the guardians of any union or parish, or the overseers of any

Unemancipated Child of Irish Parents—Birth Settlement.—A legitimate child whose parents have no settlement, though unemancipated, has a settlement in the parish in which it was born. Where a legitimate child, born in England, is removed under 16 & 17 Vict. c. 97, to an asylum as a pauper lunatic, being then above the age of sixteen, but unemancipated, and living with his parents (the father being an Irishman, having no settlement in England, and the mother being an Englishwoman, not having any known settlement), an order for his maintenance is properly made under section 97 on the parish of his birth, and ought not to be made under section 98 on the county, as for a pauper whose place of settlement cannot be ascertained.—*Reg.* v. *Newchurch*, 3 B. & S. 107; 9 Jur. (N.S.) 536; 7 L. T. (N.S.) 271; 32 L. J. R. (N.S.) M. C. 19.

(*d*) "from".

(*e*) This will include the case of a person born in Ireland, or Scotland, or the Channel Islands, or any foreign country, and not having gained any settlement in England. (*Clerk of the Peace for Somersetshire* v. *Shipham*, 32 L. J. R. (N.S.) M. C. 83; 9 Jur. (N.S.) 869, 7 L. T. (N.S.) 673;—though as to a child born in England, of any such person, see *Reg.* v. *Newchurch*, in note (*e*) on s. 97, *ante*. In such a case, the county cannot obtain reimbursement,—the provisions of s. 99 (*post*) being inapplicable.

(*f*) s. 119, *post*.

(*g*) 18 & 19 Vict. c. 105, s. 15, *post*. No appeal appears to lie against this order. See the terms of s. 108, *post*; and s. 128, *post*; also *Wilson* v. *Overseers of Liverpool*, 17 Q. B. 303; 20 L. J. R. (N.S.) M. C. 232 (under 8 & 9 Vict. c. 126); and *Kettering Union* v. *Northampton Asylum*, 34 L. J. R. (N.S.) M. C. 198; 11 Jur. (N.S.) 999; 13 L. T. (N.S.) 199; 6 B. & S. 653.

parish, all expenses incurred (*h*) by or on behalf of such union or parish in or about the examination of such lunatic, and the bringing him before a justice or justices, and his conveyance to the asylum, hospital, or house, and all monies paid (*h*) by such guardians or overseers to the treasurer, officer, or proprietor of the asylum, hospital, or house, for the lodging, maintenance, medicine, clothing, and care of such lunatic, and incurred (*h*) within twelve calendar months (*h*) previous to the date of such order, and (if such lunatic is still in confinement) also to pay to the treasurer officer, or proprietor of the asylum, hospital, or house the reasonable charges of the future lodging, maintenance, medicine, clothing, and care of such lunatic; (*i*) and every such treasurer of a county on whom any such order is made shall, (*j*) out of any monies which may come into his hands by virtue of his office, immediately pay to such guardians or overseers the amount of the expenses and monies by such order directed to be paid to them, and from time to time pay to the said treasurer, officer, or proprietor of the asylum, hospital, or house, the future charges aforesaid: (*k*) provided always, that such justices may direct such inquiry to be made to ascertain the parish in which any pauper lunatic is settled, as they think fit, (*l*) and delay adjudging such pauper lunatic to be chargeable to any county until such further inquiry has been made: provided also, that every county to which any pauper lunatic is adjudged to be chargeable as aforesaid may at any time thereafter inquire (*l*) as to the parish in which such lunatic is settled, and may procure such lunatic to be adjudged to be settled in any parish. (*m*)

(*h*) See *Reg.* v. *Winster*, 14 Q. B. 344; and note (*x*) on s. 97 *ante*.

(*i*) It will be observed that this provision is confined to the lunatic himself, and does not include the relief of his wife or family, in the workhouse or elsewhere.

(*j*) s. 121, *post*.

(*k*) As to boroughs, see 12 & 13 Vict. c. 82, s. 2, *ante*, p. 337; and 25 & 26 Vict. c. 111, s. 45. *post*.

(*l*) s. 119, *post*.

(*m*) *Order on County—Subsequent Order on Parish of Settlement.*—Where an order adjudging a pauper lunatic chargeable to the county is made, and it cannot then be shown that the removing parish is the parish of settlement, the county is not precluded from afterwards proving this and applying for an order of reimbursement.—*Clerk of the Peace for Middlesex* v. *All Saints, Poplar*, 2 L. T. (N.S.) 215; 29 L. J. R. (N.S.) M. C. 186; 6 Jur. (N.S.) 823; 2 E. & E. 829. See s. 99, *post*.

Provision for the Reimbursement to a County of Monies paid on account of a Lunatic afterwards adjudged to belong to any Parish.

XCIX. If, after any pauper lunatic has been sent to an asylum, registered hospital, or licenced house as aforesaid, and has been adjudged to be chargeable to a county, (*n*) such county (*n*) procure such lunatic to be adjudged to be settled in any parish, (*o*) it shall be lawful for any two justices of the county or borough in which the asylum, registered hospital, or licenced house in which such lunatic is confined is situate, or from any part of which such lunatic was sent for confinement, or for any two justices being visitors of such asylum or licenced house, to make an order (*p*) upon the guardians (*q*) of the union to which such parish belongs, or of any such parish, if such parish be in a union or be under a board of guardians, or if not, then upon the overseers (*q*) of such parish, for payment to the treasurer of the said county of all expenses and monies paid by such treasurer to the treasurer, officer, or proprietor of the asylum, hospital, or house, for the lodging, maintenance, medicine, clothing, and care of such lunatic, and incurred within twelve calendar months previous to such order, and (if such lunatic is still in confinement) also for payment to the treasurer or officer or proprietor of the asylum, hospital, or house of the reasonable charges of the future (*r*) lodging, maintenance, medicine, clothing, and care of such lunatic; and such guardians or overseers shall (*s*) immediately pay to the treasurer of such county the amount of the expenses and monies by such order directed to be paid to him, and from time to time pay to the said treasurer, officer, or proprietor of the asylum, hospital, or house, the future (*r*) charges aforesaid. (*t*)

(*n*) As to boroughs, see 12 & 13 Vict. c. 82, s. 2, *ante*, p. 337; and 25 & 26 Vict. c. 111, s. 45, *post*.

(*o*) s. 98, last proviso, *ante;* and note (*m*) thereon.

(*p*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*q*) s. 100, *post*

(*r*) See also s. 101, *post*.

(*s*) s. 121, *post*.

(*t*) As to appeal by guardians or overseers, see ss. 106–119, *post*.

Justices to make Orders out of their respective Jurisdiction.

C. It shall be lawful for any justices hereinbefore (*u*) authorised to make any such order as aforesaid (*u*) upon the guardians of any union or parish, or upon the overseers of any parish, to make such order upon such guardians or overseers, although such union or parish be not within the jurisdiction of such justices.

Order for Payment of Charges of Maintenance in Asylums, etc., to extend to any Asylum, etc., to which the Lunatic may be removed.

CI. Where any order has been made (*v*) for the payment of the future charges of the lodging, maintenance, medicine, clothing, and care of any lunatic in any asylum, registered hospital, or licenced house, such order shall extend to and be applicable in respect of the charges of the lodging, maintenance, medicine, clothing, and care of such lunatic in any asylum, registered hospital, or licenced house to which he may be removed under the powers of this or any other Act, in like manner as if such charges had by such order been directed to be paid to the treasurer or an officer or the proprietor of the asylum, registered hospital, or licenced house in which such lunatic may for the time being be confined.

The Costs of Pauper Lunatics who are irremovable to be borne by the Parish wherein they were exempt from removal, or by the Common Fund in Unions.—Section 5 *of* 12 & 13 *Vict. c.* 103, *repealed.*

CII. Provided always, that all the expenses incurred since the twenty-ninth day of September, one thousand eight hundred and fifty-three, (*w*) or hereafter to be incurred, (*w*) in

(*u*) s. 96, *ante*; s. 97, *ante*; s. 99, *ante*.

(*v*) s. 96, *ante*; s. 97, *ante*; s. 98, *ante*; s. 99, *ante*.

(*w*) On 2nd October, 1844, W., who was residing in the parish of Askham, in the West Ward Union, in which parish he had resided for eleven years previously without receiving relief, was conveyed by the relieving officer to the workhouse of the union. It was acknowledged by the Morland guardian (although, as subsequently appeared, by mistake), that the pauper's settlement was in Morland; and a sum of 4*s.* which had been advanced by Askham for the pauper, was repaid to the union and charged to Morland. No order for adjudication of settlement was made. The pauper remained in the work-

and about the examination, bringing before a justice or justices, removal, lodging, maintenance, medicine, clothing, and care of a pauper lunatic heretofore (*x*) or hereafter removed to an asylum, registered hospital, or licenced house under the authority of this or any other Act, who would, at the time (*y*) of his being conveyed to such asylum, hospital, or house, have been exempt from removal (*z*) to the parish of

house charged to Morland till October, 1845, when being found to be a dangerous lunatic, he was removed, under an order of a justice, to a licenced house in the county of Lancaster; from which, by a similar order, he was, in 1847, removed to another licenced house, where he had remained ever since. In each order the pauper was described as having his abode in Askham. The pauper was maintained at the expense of Morland until 5th February, 1854, when the expense of his maintenance was ordered by the guardians to be charged to the common fund. On the 22nd November, 1854, the guardians again ordered the expenses of maintenance to be charged to Morland; and at the audit for the half-year ending Lady-day, 1855, the auditor objected to this, but, on account of a technical omission, did not disallow the charge. At the audit for the half-year ending Michaelmas, 1855, the auditor, finding the maintenance still charged to Morland, disallowed the charge, and charged it to the common fund. The settlement of the pauper was, in fact, not in Morland, but in a parish in another county. Reference was made to the following Acts:—7 & 8 Vict. c. 101, s. 56; 9 & 10 Vict. c. 66; 11 & 12 Vict. c. 110, s. 3; 12 & 13 Vict. c. 103, s. 4 and s. 5; 16 & 17 Vict. c. 97, s. 102. It was held that the pauper had a status of irremovability in Askham, that the union fund was properly chargeable, and that the construction of the auditor was right. *Reg.* v. *West Ward Union*, 26 L. J. R. (N.S.) M. C. 29; 3 Jur. (N.S.) 185.

Where justices had issued a warrant of distress on the overseers of a pauper lunatic's parish of settlement, for arrears of expense of his maintenance subsequent to the 29th September, 1853, under an order made before the statute, and the pauper at the time he was conveyed to the asylum was exempt from removal from a parish not in a union, —it was held, by the Court of Exchequer Chamber, reversing the judgment of the Queen's Bench in *Knowles* v. *Trafford*, 26 L. J. R. (N.S.) M. C. 51; 3 Jur. (N.S.) 383, that the order was inoperative, and the warrant had issued without jurisdiction.—*Knowles* v. *Trafford*, 29 L. T. 248; 3 Jur. (N.S.) 1018; 26 L. J. R. (N.S.) M. C. 188; 7 E. & B. 144.

(*x*) See preceding note.

(*y*) *Reg.* v. *St. Giles in the Fields*, and *Reg.* v. *East Retford*, in note (*c*) to s. 97, *ante*. The continuance of the charge to the common fund is not affected by any subsequent change of circumstances, as regards the irremovability of the pauper, so long as he remains in the asylum.

(*z*) As to break of residence, see *Reg.* v. *Stourbridge Union*, 34 L. J. R. (N.S.) M. C. 179, 11 Jur. (N.S.) 799, 12 L. T. (N.S.) 542; *Reg.* v. *Glossop Union*, L. R. 1 Q. B. 227, 35 L. J. R. (N.S.) M. C. 148, 13 L. T. (N.S.) 672; *Reg.* v. *Whitby Union*, 39 L. J. R. (N.S.) M. C. 97, 22 L. T.

his settlement or the country of his birth (*a*) by reason of some provision in the Act of the session holden in the ninth and tenth years of Her Majesty, chapter sixty-six, (*b*) shall be paid by the guardians of the parish wherein such lunatic shall have acquired such exemption (*c*) if such parish be subject to a separate board of guardians, or by the overseers of such parish where the same is not subject to such separate board, and where such parish shall be comprised in any union (*d*) the same shall be paid by the guardians, and be charged to the common fund of such union (*d*) so long as the cost of the relief of paupers rendered irremovable by the last-mentioned Act shall continue to be chargeable upon the common funds of unions; (*e*)

(N.S.) 336, L. R. 5 Q. B. 325. As to computation of period of residence, see *Reg.* v. *St. George, Bloomsbury*, 32 L. J. R. (N.S.) M. C. 217, 4 B. & S. 108. See also note (*c*) to s. 97, *ante*.

(*a*) *Reg.* v. *Arnold*, 21 L. J. R. (N.S.) M. C. 180; 18 Q. B. 553; 19 L. T. 255.

(*b*) See also 11 & 12 Vict. c. 111, s. 1; and 24 & 25 Vict. c. 55, ss. 1, 2, 3. As to how far these are to be regarded as one Act, see *Reg.* v. *St. Giles in the Fields;* and *Reg.* v. *East Retford*, in note (*c*) to s. 97, *ante*. As to how far lunacy is a "sickness," within 9 & 10 Vict. c. 66, s. 4, see *Reg.* v *Manchester*, and *Hunslet* v. *Dewsbury Union*, 6 E. & B. 919; 26 L. J. R. (N.S.) M. C. 1; 2 Jur. (N.S.) 1205; see also Official Circular, No. 57, (N.S.) pp. 86–88.

(*c*) On appeal against an order for the maintenance of a pauper lunatic, made on the township of Leeds, under 16 & 17 Vict. c. 97, s. 102, it appeared that the pauper had lived with her husband at Leeds ever since their marriage, which took place twenty years ago, and had thus acquired a status of irremovability there. In July, 1856, she was taken ill whilst on a visit to her sister at Wakefield, and was removed by the guardians of Wakefield Union to the county asylum, and shortly after in the same month her husband died at Leeds. The guardians of Wakefield Union obtained an order on the Leeds guardians for her maintenance in the asylum. Thorne was admitted to be the parish of her settlement. It was held that the order was properly made under s. 102, notwithstanding that the pauper was not actually resident in Leeds at the time when she was sent to the asylum, that section containing by necessary implication authority for justices to make an order in the cases therein provided for.—*Leeds* v. *Wakefield Union*, 26 L. J. R. (N.S.) M. C. 37; 3 Jur. (N.S.) 292; 7 E. & B. 258; 28 L. T. 265.

(*d*) 132, *post*.

(*e*) See 24 & 25 Vict. c. 55, s. 8, which makes the provisions on this subject perpetual; and see also 28 & 29 Vict. c. 79, s. 1 (*post*), under which the cost of all relief is now chargeable to the common fund in unions.

and no order shall be made under any provision contained in this or any other Act upon the parish of the settlement in respect of any such lunatic pauper during the time that the above-mentioned charges are to be paid and charged as herein provided; (*f*) and section five of the Act of the session holden in the twelfth and thirteenth years of Her Majesty, chapter one hundred and three, shall be repealed. (*g*)

Guardians and Overseers may pay Charges without Orders of Justices.

CIII. Provided also, that any guardians or overseers who would be liable under any provision contained in this Act to have an order made upon them for the payment of any money may pay the same without any such order being made, and may charge the same to such account as they could have done if such order had been made.

Lunatic's Property to be available for his Maintenance.

CIV. If it appear to any justice or justices by this Act authorized to make any order for the payment of money for the maintenance of any lunatic (*h*) that such lunatic has an

(*f*) This section is virtually a proviso to ss. 95–101. If the pauper, when sent to the asylum, be "irremovable" in a parish not comprised in any union, he will remain chargeable to that parish; if he be "irremovable" in a parish included in a union, he will be chargeable to the common fund of such union; and no order can be made in either case upon the parish of his settlement. The charge is to be made by virtue of the enactment, and does not require an order of justices; though such an order may be made (*Leeds* v. *Wakefield Union*, in note (*c*) to this section, *ante*). It will be observed that 24 & 25 Vict. c. 55, ss. 6, 7 (*post*), provide for a different class of cases—viz., lunatic paupers who are not "irremovable."

(*g*) The 12 & 13 Vict. c. 103, s. 5, passed on 1st August 1849, in consequence of the decision in *Reg.* v. *Leaden Roothing* (12 Q. B. 181) was the first enactment which rendered the cost of lunatics in asylums, hospitals, and licenced houses, chargeable upon the common fund in unions. The following cases were decided under it:—*Reg.* v. *St. Leonard, Shoreditch*, 14 Q. B. 340; *Wigton* v. *Snaith*, 16 Q. B. 496; *Reg.* v. *Priest Hulton*, 17 Q. B. 59; *Reg.* v. *Arnold*, 18 Q. B. 553; 19 L. T. 255; *Reg.* v. *St. Anne, Blackfriars*, 22 L. J. R. (N.S.) M. C. 137; *Reg.* v. *Leeds*, 17 L. T. 142.

(*h*) This section differs from s. 94 (*ante*) as regards the class of cases to which it refers. The 94th section is limited to the cases of lunatics confined under an order of two justices, pursuant to s. 68; the 104th section extends to all cases in which an order of maintenance

estate, real or personal, applicable to his maintenance, and more than sufficient to maintain his family, if any, he or they shall, by an order under his or their hand and seal (*i*) or hands and seals (*i*) direct the overseers of the parish, or a relieving officer (*j*) of the parish or union, or the treasurer or some other officer of the county to which such lunatic is chargeable, or in which any property of the lunatic may be, or an officer of the asylum in which the lunatic may be, to seize so much of any money, and to seize and sell so much of the goods and chattels, and to take and receive so much of the rents and profits of the lands and tenements of such lunatic and other income of such lunatic, (*k*) as may be necessary to pay the charges of the examination, bringing before a justice or justices, removal, lodging, maintenance, clothing, medicine, and care of such lunatic, accounting for the same to such justice or justices, such charges having been first proved to the satisfaction of such justice or justices, and the amount set forth in such order; and if any

may be made by a justice or justices. (Sec ss. 96–102.) See also 7 & 8 Vict. c. 101, s. 27, *post*.

(*i*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*j*) The application to the justices on behalf of the guardians should be made by their clerk. The proceedings under this section are not affected by 24 & 25 Vict. c. 55, s. 7, *post*.

(*k*) Where a person of unsound mind had been maintained in a lunatic asylum by his parish, a portion of a capital of a fund belonging to him, which had been paid in under the Trustee Relief Act, was ordered by the Court of Chancery to be applied in defraying the past charges of the parish. The Court has a discretion to order such repayment or not, as it may think most for the benefit of the lunatic. *Qu.*: Whether, under the above circumstances, justices have jurisdiction to order seizure of capital, or only of income? (*Re* Buckley's Trust, 1 Johnson 700.)

As to claim by overseers on lunatic's estate under the repealed Act, 8 & 9 Vict. c. 126, s. 49, see *re* Tyler's Trusts, 2 Jur. (N.S.) 927.

J. F. died intestate, and a widow, leaving a daughter, the only person entitled to distribution of her effects. The daughter had been for some years in the county asylum, maintained at the charge of Mile End Old Town, and no committee of person or estate had been appointed, but an order of two justices, to seize and sell, had been obtained under 16 & 17 Vict. c. 97, s. 104. The mother left a sum of money, principally in the funds, in the name of her late husband, under whose will she was entitled to it. After the proper citations, the Court of Probate, under sect. 73 of the Probate Act, granted administration of the goods of J. F. to the clerk to the guardians of Mile End

trustee (*l*) or other person (*l*) having the possession, custody, or charge of any property of such lunatic, or if the Governor and Company of the Bank of England, or any other body (*l*) or person (*l*) having in their or his hands any stock, interest, dividend, or annuity, belonging or due to such lunatic, pay any money according to any such order, or pay any money without any such order, to the guardians of any union or parish, or to any overseer of any parish not in a union or under a board of guardians, or to the treasurer of any county, or any other officer of any county authorised to receive the same, to defray the charges paid or incurred by or on behalf of such parish, union, or county for the examination, bringing before a justice or justices, removal, lodging, maintenance, clothing, medicine, and care of such lunatic, the receipt of the person authorised to receive such money under such order, or of such guardians, overseer, or treasurer, or other officer, shall be a good discharge to such trustee, governor, and company, or other body or person as aforesaid. (*m*)

Liability of Relations of Pauper not to be affected.

CV. The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any asylum, registered hos-

Old Town, for the use and benefit of the lunatic, limited to the period of her lunacy. An inventory and justified security to be required. (*Mile End Old Town* v. *Findlay*, 9 L. T. (N.S.) 346; 9 Jur. (N.S.) 1253; 33 L. J. R. (N.S.) Prob. 21.)

The Vice-Chancellor, in ordering the dividends of a fund in Court to be paid for the future benefit of a lunatic not so found by inquisition, refused to allow a claim made by the City of London Union for past maintenance of the lunatic in the workhouse of that union. (*Re* Coleman's Trust, 1 Weekly Notes 209; 14 L. T. (N.S.) ch. 587.)

(*l*) As, for instance, the trustees or stewards or other officers of any savings bank, or any friendly or benefit society. This provision is discretionary.

(*m*) It seems that this section, in both its clauses, can only be acted upon during the lifetime of the lunatic. The language throughout contemplates that the lunatic will be living at the time; and, indeed, after his death, the property is no longer his. No proceedings, therefore, can be taken under this enactment after the lunatic's death; but as to the property of deceased paupers, see the last clause of s. 16 of 12 & 13 Vict. c. 103, *post*.

pital, or licenced house, by any provision herein contained concerning the maintenance of such lunatic. (*n*)

Persons aggrieved by Refusal of an Order may appeal to the Sessions.

CVI. If any person feel aggrieved by any refusal of an order of any justice or justices as aforesaid, such person may appeal to the next general or quarter sessions of the peace for the county or borough where the matter of appeal has arisen, the person so appealing having given to the justice or justices against whom such appeal is made fourteen clear days' notice of such appeal, and such sessions are hereby authorised and required to hear and determine the matter of such appeal in a summary way, and their determination shall be final and conclusive.

Party obtaining Order of Adjudication to send Copy thereof and Statement of Grounds to the Parish or County affected.

CVII. The overseers of any parish, and the guardians of any union (*o*) or parish, and the clerk of the peace of any county, obtaining any order under this Act adjudging the settlement of any lunatic to be in any parish, shall, within a reasonable time after such order has been made, send or deliver, by post or otherwise, to the overseers or guardians of the parish in which such lunatic is adjudged to be settled, a copy or duplicate of such order, and also a statement in writing under their or his hands or hand, or where they are the guardians of a union or parish, under the hands of any three or

(*n*) 43 Eliz. c. 2, s. 6, in the Revised Edition of the Statutes; 59 Geo. iii. c. 12, s. 26; 4 & 5 Wm. iv. c. 76, ss. 56, 57, 58, 59, 78; 7 & 8 Vict. c. 101, s. 25; 11 & 12 Vict. c. 110, s. 8; and 33 & 34 Vict. c. 93, s. 14. See also 13 & 14 Vict. c. 101, s. 5, *post*, and Introduction, *ante*, p. 333.

(*o*) Where the order of adjudication of the settlement of a pauper lunatic was obtained by the guardians of a union on behalf of a township, it was held that the overseers of the township were the proper persons to sign the statement of the grounds of adjudication, and of the particulars of settlement, required by sect. 107.—*Heaton* v. *Manningham*, 33 L. T. 132, S. C. nom.; *Reg.* v. *Heaton*, 28 L. J. R. (N.S.) M. C. 181; 5 Jur. (N.S.) 1008; 1 E. & E. 782. [But now see 24 & 25 Vict. c. 55, s. 7, *post*.]

more of such guardians, (*a*) stating the description and address of the overseers, guardians, (*b*) or clerk of the peace obtaining such order, and the place of confinement of the lunatic, and setting forth the grounds of such adjudication, including the particulars of any settlement or settlements relied upon in support thereof; (*c*) and on the hearing of any appeal against any such order it shall not be lawful for the respondents to go into or give evidence of any other grounds in support of such order than those set forth in such statement.

Appeal against Order of Adjudication.

CVIII. If the guardians of any union or parish, or the overseers of any parish, (*d*) feel aggrieved by any such order

(*a*) Having regard to the terms of s. 38 of 4 & 5 Wm. iv. c. 76, it appears to be the safer course that the statement should be signed by the three guardians at a meeting of the board of guardians.

(*b*) As to the description and address of the guardians, see *Reg.* v. *Manchester*, 26 L. J. R. (N.S.) M. C. 1; 6 E. & B. 919; 28 L. T. 82, and note on s. 112, *post*.

(*c*) *Reg.* v. *Minster*, 14 Q. B. 349; 20 L. J. R. (N.S.) M. C. 48 (under 8 & 9 Vict. c. 126); and see the remarks on that case, by Coleridge, J., in *Reg.* v. *Pinder*, in *re* Greenwood, 24 L. J. R. (N.S.) M. C. 152.

(*d*) The first edition of the present work contained the following note: —"It is doubtful how far the right of the overseers of a parish in a union to appeal under this section against the adjudication of the settlement is affected by the subsequent enactment in 24 & 25 Vict. c. 55, s. 7, *post*, which empowers the guardians of the union to appeal against the order of adjudication, the lunatic being chargeable to the common fund under s. 6 of that Act, *post*. Under a similar provision in the repealed Act, 8 & 9 Vict. c. 126, s. 62, it was held that the overseers might appeal (see *Reg.* v. *JJ. of Middlesex*, 16 L. J. R. (N.S.) M. C. 109; *Reg.* v *JJ. of Lancashire*, 18 L. J. R. (N S.) M. C. 121; and in *Reg.* v. *JJ. of York, W. R.* 7 E. & B. 14; 26 L. J. R. (N.S.) M. C. 41; 3 Jur. (N.S.) 132), the right of the overseers to appeal, independently of the guardians, under the 16 & 17 Vict. c. 97, s. 108, was expressly affirmed; though the Court pointed out that the two appeals ought to be heard together. This decision, however, was given before the passing of the Act 24 & 25 Vict. c. 55; and as, under s. 6, the charge of the maintenance will fall on the common fund, the guardians of the union appear, so far, to be alone concerned in the matter; but as there is an adjudication of settlement, which, if unappealed against, may be binding upon the parish for the future (*Heston* v. *St. Bride's*, 1 E. & B. 583), the overseers have an interest in resisting that adjudication. It may be added, that although the 24 & 25 Vict. c. 55, s. 7, enables the guardians to appeal, it does not expressly take away the right of the overseers to do so. The propriety of their doing so, however, and the

as aforesaid adjudging the settlement of any lunatic,(*e*) they or he may appeal against the same to the next general quarter sessions (*f*) of the peace for the county (*g*) in behalf of which such order has been obtained, or in which the union or parish obtaining such order is situate, or in case such parish or union extend into several jurisdictions,(*h*) then to the next general quarter sessions of the peace for the county or borough (*i*) in which the asylum, registered hospital, or

allowance of the costs in their accounts, must depend upon the circumstances of the case." Since the above note was written, the point has been decided, in *Reg.* v. *Medway Union*, 37 L. J. R. (N.S.) M. C. 100; 18 L. T. (N.S.) 431; 9 B. & S. 439, L. R. 3 Q. B. 383; where an order was made adjudging the settlement of a lunatic pauper to be in a parish in a union, and the overseers of the parish having appealed against it, the Court held that they had a right to do so under this section, and that there was nothing in the 24 & 25 Vict. c. 55, to deprive them of that right. The result is, that in such a case the appeal may be brought either by the overseers of the parish in which the pauper is adjudged to be settled, or by the guardians of the union in which that parish is comprised.

(*e*) *Kettering Union* v. *Northampton Asylum*, 34 L. J. R. (N.S.), M. C. 198; 11 Jur. (N.S.) 999; 13 L. T. (N.S.) 199; 6 B. & S. 653. See note (*i*) on s. 96, *ante*.

(*f*) *Reg.* v. *Lancashire, JJ.*, 18 Q. B. 361; 21 L. J. R. (N.S.) M. C. 164 (under 8 & 9 Vict. c. 126). At the hearing of an appeal against an order made by justices adjudicating the settlement of a pauper lunatic, and ordering payment for his maintenance, the Court have power to adjourn the hearing to the next sessions, and this may be done after the trial of the appeal has been partly proceeded with. But the power of so adjourning ought to be cautiously and carefully exercised. —*Reg.* v. *Cambridge*, 30 L. J. R. (N.S.) M. C. 137; 1 E. B. & E. 61; 7 Jur. (N.S.), 1073.

(*g*) An order under s. 97, adjudging the settlement, etc., of a pauper lunatic confined in the borough lunatic asylum, was obtained by a parish situate wholly within a borough, having separate quarter sessions, and was made by two justices of the borough, the asylum being also within the borough:—held that the appeal against the order under s. 198, was to the county, and not to the borough quarter sessions.—*Reg.* v. *Warwickshire JJ.*, 33 L. T. 201; 28 L. J. R. (N.S.) M. C. 249; 5 Jur. (N.S.) 1292.

(*h*) Where an order was obtained by a union comprising parishes, some of which were within a city, which, though in the county, had separate quarter sessions, and some in the county without the city,— held, that the appeal against the order should be made to the quarter sessions of such county, and not to the sessions of the borough within which the asylum was situate; the Court being of opinion that the words "several jurisdictions" must be construed as meaning "several such jurisdictions," *i.e.* counties.—*Reg.* v. *JJ. of Kent*, 35 L. J. R. (N.S.) M. C. 201; 14 L. T. (N.S.) 331; L. R. 1 Q. B. 385; 7 B. & S. 394.

(*i*) As to an appeal by mistake to the borough instead of the county

licenced house in which such lunatic is or has been confined is situate, and such sessions upon hearing the said appeal shall have full power finally to determine the matter. (*j*)

Copy of Depositions to be furnished on application.

CIX. The clerk to the justices making any order adjudging the settlement of any lunatic, or the clerk of the peace in the case hereinafter provided for, (*k*) shall keep the depositions upon which such order was made, and shall within seven days furnish a copy of such depositions to any party authorised to appeal against such order, if such party apply for such copy, and pay for the same at the rate of twopence for every folio of seventy-two words; provided that no omission or delay in furnishing such copy of the depositions shall be deemed or construed to be any ground of appeal against the order: provided also, that on the trial of any appeal against any such order, no such order shall be quashed or set aside either wholly or in part on the ground that such depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order, or grounds on which the same was made: (*l*) provided also, that if the justices who make any such order have not any clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the general quarter sessions whereof the appeal against such order is given by this Act, and the party obtaining such order shall, in such statement of grounds of adjudication as aforesaid, state that such justices have not any clerk.

No Appeal if Notice not given within a certain Time after Notice of Order.

CX. No appeal shall be allowed against any such order if notice in writing of such appeal be not sent or delivered by post or otherwise to the party on whose application the order was obtained within the space of twenty-one days after the sending or delivery, as hereinbefore directed, (*m*) of a copy or

sessions, see *Reg.* v. *Salop, JJ.*, and *Reg.* v. *Buckinghamshire JJ.*, 4 E. & B. 257, 259, *n.*; 24 L. J. R. (N.S.) M. C. 14, 15; 18 Jur. 1079, 1080.

(*j*) See s. 115, *post*; and s. 116, *post*.

(*k*) See last proviso to this section.

(*l*) *Reg.* v. *St. Peter, Barton-upon-Humber*, 17 Q. B. 630; 21 L. J. R. (N.S.), M. C. 23 (under 8 & 9 Vict. c. 126).

(*m*) s. 107, *ante*.

duplicate of such order and such statement as hereinbefore mentioned (*n*) unless within such period of twenty-one days a copy of the depositions shall have been applied for as aforesaid (*o*) by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for the giving of such notice of appeal. (*p*)

Grounds of Appeal to be stated.

CXI. In every case where notice of appeal against such order is given the appellant shall, with such notice, or fourteen days at least (*q*) before the first day of the sessions at which such appeal is intended to be tried, send or deliver by post or otherwise to the respondent a statement in writing under their or his hands or hand, or where the appellants are the guardians of any union or parish, under the hands of any three or more of such guardians, (*r*) of the grounds of such appeal; and it shall not be lawful for the appellant on the hearing of any appeal, to go into or give evidence of any other grounds of appeal than those set forth in such statement.

As to the sufficiency of Statement of Grounds of Adjudication or Appeal.—Power to amend Statement.

CXII. Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication (*n*) or appeal (*s*) in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail unless the court be of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to

(*n*) s. 107, *ante*.

(*o*) s. 109, *ante*.

(*p*) *Reg.* v. *Glamorganshire JJ.*, 13 Q. B. 561 (under 8 & 9 Vict. c. 126).

(*q*) *Reg.* v. *Shropshire JJ.*, 8 A. & E. 173.

(*r*) *Reg.* v. *Cambridgeshire JJ.*, 6 L. T. (N.S.) 332; 7 L. T. (N.S.) 675; 8 Jur. (N.S.) 562. As to signature of notice by three guardians in the Norwich Union under a Local Act, see also note (*a*) to s. 107, *ante*.

(*s*) s. 111, *ante*.

inquire into the subject of such statement, and to prepare for trial: provided always, that in all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, it shall be lawful for such court, if it so think fit, to cause any such statement to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to such court appears just and reasonable. (*t*)

Power for Court to amend Order on account of Omission or Mistake.—Proviso.

CXIII. If, upon the trial of any appeal against any such order, or upon the return to a writ of certiorari, (*u*) any objection be made on account of any omission or mistake in the drawing up of such order, and it be shown to the satisfaction of the court that sufficient grounds were in proof before the justices making such order to have authorised the drawing up thereof free from the said omission or mistake, it shall be lawful for the court, upon such terms as to payment of costs as it think fit, to amend such order and to give judgment as if no such omission or mistake had existed: (*v*)

(*t*) Where a statement of the grounds of adjudication required to be sent under 16 & 17 Vict. c. 97, s. 107, omitted to give the description and address of all the guardians by whom it was signed; it was held that this was such a defect as the sessions had power to amend. (See 11 & 12 Vict. c. 31, s. 4).—*Reg.* v. *Manchester*, 26 L. J. R. (N.S.) M. C. 1; 6 E. & B. 919; 26 L. T. 82.

(*u*) 5 Geo. II. c. 19; 13 Geo. II. c. 18.

(*v*) By a local Act the churchwardens and overseers, together with the rector and twenty-one other persons, were declared to be the guardians of the poor of the parish of L. The justices made an order, under s. 97, adjudging the settlement of a lunatic, on "the churchwardens and overseers of the parish of L," which was served on the overseers, but not on the guardians. On appeal the order was amended into an order "on the guardians of the poor of the parish of L.:"—held, that both orders were bad; that the mistake in the first order was one of substance, and not of form; and that the alteration of the address was not such an amendment as could be made under s. 113, as the order thus amended sought to affect new parties, who had never been before the court.—*Reg.* v. *Liverpool*, 2 L. T. (N.S.) 173; 29 L. J. R. (N.S.) M. C. 137; 6 Jur. (N.S.) 1028.

provided always, that no objection on account of any omission or mistake in any such order brought up upon a return to a writ of certiorari shall be allowed, unless such omission or mistake have been specified in the rule for issuing such writ of certiorari.

Party making frivolous or vexatious Statement of Grounds liable to pay Costs.

CXIV. If either of the parties to the said appeal shall have included in the statement of grounds of adjudication or of appeal sent to the opposite party any ground or grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, is or are frivolous and vexatious, such party shall be liable, at the discretion of the said court, to pay the whole or any part of the costs incurred by the other party in disputing any such ground or grounds.

Party losing Appeal to pay such Costs as Court may direct.

CXV. Upon every such appeal the court before whom the same is brought shall and may, if they think fit, order and direct the party against which the same is decided to pay to the other such costs and charges as may to such court appear just and reasonable, and shall certify the amount thereof. (*w*)

Decisions of Courts upon hearing Appeals to be final.

CXVI. The decision of the court upon the hearing of any appeal against any such order, as well upon the sufficiency and effect of the statement of the grounds in support of the order and appeal, and of the copy or duplicate of the order sent to the appellant parish or county, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of certiorari or mandamus or otherwise.

Abandonment of Orders.

CXVII. In any case in which an order has been made as aforesaid, and a copy or duplicate thereof sent as herein re-

(*w*) The sessions by which the appeal is heard and determined is alone competent to decide as to the costs; and an order for costs made at a subsequent sessions was therefore held to be invalid.—*Reg.* v. *Staffordshire JJ.*, 3 Jur. (N.S.) 1148; 26 L. J. R. (N.S.) M. C. 179.

quired, it shall and may be lawful for the party who has obtained such order, whether any notice of appeal against such order has or has not been given, and whether any appeal has or has not been entered, to abandon such order, (*x*) by notice in writing under the hand or hands of such party, or, where such order has been obtained by the guardians of any union, under the hands of any three or more of such guardians, (*y*) to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the said order and all proceedings consequent thereon shall become and be null and void to all intents and purposes as if the same had not been made, and shall not be in any way given in evidence, in case any other order for the same purposes shall be obtained: provided always, that in all cases of such abandonment the party so abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of such order and of all subsequent proceedings thereon; which costs the proper officer of the court before whom any such appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain at any time, whether the court be sitting or not, upon production to him of such notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the overseers, guardians, or clerk of the peace abandoning such order as the distance between the parties shall in his judgment require; and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so endorsed shall be filed among the records of the said court. (*z*)

Provisions of this Act as to Expenses to extend to Pauper Lunatics sent to Asylums under any other Act, etc.

CXVIII. The provisions of this Act for and concerning

(*x*) This enactment refers exclusively to the abandonment of the order. There is no express provision in this Act as to the abandonment of the appeal; but on that subject, see 8 & 9 Wm. iii. c. 30, s. 3.

(*y*) See note (*a*) on s. 107, *ante*.

(*z*) As regards the series of enactments from s. 107 to s. 117, both inclusive, it is advisable to refer to the analogous provisions in 11 & 12 Vict. c. 31, and 12 & 13 Vict. c. 45, and the several cases decided thereon.

the payment of expenses incurred or to be incurred in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any asylum, registered hospital, or licenced house under any other Act authorizing their reception therein as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have an estate, real or personal, applicable to his maintenance) (*a*) with respect to all other lunatics sent to any asylum, registered hospital, or licenced house under any order of a justice or justices made under this Act, (*b*) or the Acts hereby repealed, or any of them, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the parish from which they have been or shall be sent.

In Cases of Inquiries and Appeals, Guardians and Officers interested to have access to the Lunatic.

CXIX. In every case of an inquiry, investigation, dispute, or appeal as to the parish in which a pauper lunatic is settled, the guardians, clerks of the guardians, relieving officers, and overseers of every union including any parish, or of any parish, which parish respectively is interested in such inquiry, investigation, dispute, or appeal, and every person duly authorised by them respectively, and the clerk of the peace of any county interested in such inquiry, investigation, dispute, or appeal, and every person duly authorised by such clerk of the peace, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic, to examine him as to the premises. (*c*)

(*a*) s. 94, *ante*, and s. 104, *ante*.

(*b*) s. 68, *ante*, and s. 69, *ante*. See also Introduction, *ante*, p. 82.

(*c*) This section does not mention the places or establishments to which it is intended to apply; but it will doubtless include hospitals and licenced houses as well as asylums. See also s. 65, *ante*. It will be observed that "clerks of the guardians," and "relieving officers," are specified in s. 119, but not in s. 65; and that the visits referred to in s. 119 are limited to a particular purpose. With regard to the clerk's duty to act in these matters, both as respects orders and appeals, see the Regulations issued by the Poor Law Commissioners and the Poor Law Board (Glen's Poor Law Board Orders, seventh edition, 1871); and the note on 24 & 25 Vict. c. 55, s. 7, *post*.

Expenses of the Burial, Removal, or Discharge of a Pauper.

CXX. On the death, (*d*) discharge, (*e*) or removal, (*e*) of any pauper from any asylum, registered hospital, or licenced house, the necessary expenses attending the burial, (*d*) discharge, (*e*) or removal (*e*) of such pauper shall be borne by the union or parish (if any) to which such pauper is chargeable, as hereinbefore provided, (*f*) or if such pauper be chargeable to a county as hereinbefore provided, (*f*) then by such county, and shall be paid by the guardians of such union or parish, or by the overseers of such parish if not in a union or under a board of guardians, or by the treasurer of such county.

(*d*) See Introduction, *ante*, pp. 317–319, and p. 323; see also 18 & 19 Vict. c. 105. ss. 11-13, *post*, and 25 & 26 Vict. c. 111, ss. 9, 10, *post*. In the case of an inquest, the 37 & 38 Vict. c. 88 s. 17, provides as follows :—

"A coroner, upon holding an inquest upon any body, may, if he thinks fit, by order under his hand authorize the body to be buried before registry of the death, and shall give such order to the relative of the deceased or other person who causes the body to be buried, or to the undertaker or other person having charge of the funeral; and, except upon holding an inquest, no order, warrant, or other document for the burial of any body shall be given by the coroner. The registrar, upon registering any death, or upon receiving a written requisition to attend at a house to register a death, or upon receiving such written notice of the occurrence of a death, accompanied by a medical certificate as is before provided by this Act, shall forthwith, or as soon after as he is required, give, without fee or reward, either to the person giving information concerning the death or sending the requisition or notice, or to the undertaker or other person having charge of the funeral of the deceased, a certificate under his hand that he has registered or received notice of the death, as the case may be. Every such order of the coroner and certificate of the registrar shall be delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased; and any person to whom such order or certificate was given by the coroner or registrar who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings. The person who buries or performs any funeral or religious service for the burial of any dead body, as to which no order or certificate under this section is delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fail so to do shall be liable to a penalty not exceeding ten pounds."

(*e*) See Introduction, *ante*, pp. 316, 317; and pp. 321–323.

(*f*) ss. 95–103, *ante*; also s. 118, *ante*; and last proviso to s. 94, *ante*.

Money ordered to be paid by any Clerk, (g) Overseer, Relieving Officer, (g) or Treasurer, to be levied (in case of neglect to pay) by Distress or Action.

CXXI. If any overseer, or any treasurer of any county, upon whom any order of justices for the payment of money under the provisions of this Act or of any Act hereby repealed is made, shall refuse or neglect for the space of twenty days next after due notice of such order to pay the money so ordered to be paid, the said money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the overseer or treasurer so refusing or neglecting, by warrant under the hands and seals (*h*) of any two justices hereby authorised to make the order for payment of the money aforesaid, or by an action at law, or by any other proceeding in any court of competent jurisdiction, against such overseer or treasurer; and if the guardians (*i*) upon whom any such order is made refuse and neglect for such time as aforesaid to pay the money so ordered to be paid, the same, together with the expenses of recovering the same, may be recovered by an action at law or by any other proceeding in any such court; and in case of any such action or proceeding no objection shall be taken to any default or want of form in any order of admission or maintenance, or in any certificate or adjudication under this Act, if such order or adjudication shall not have been appealed against, or if appealed against shall have been affirmed.

MISCELLANEOUS.

Medical Men signing false Certificates and Persons not being Medical Men giving Certificates as such, guilty of Misdemeanor.

CXXII. Any physician, surgeon, or apothecary (*j*) who shall sign any certificate contrary to the provisions herein contained shall for every such offence forfeit any sum not

(*g*) Neither "clerk" nor "relieving officer" is mentioned in the enactment, though referred to in the marginal note.

(*h*) 18 & 19 Vict. c. 105, s. 15, *post*.

(*i*) Probably, service of the order upon the chairman or the clerk of the board of guardians will suffice; but the better course will be to serve the order upon the board of guardians at one of their meetings.

(*j*) s. 132, *post;* and 25 & 26 Vict. c. 111, s. 47, *post*.

exceeding twenty pounds; (*k*) and any physician, surgeon, or apothecary (*l*) who shall falsely state or certify anything in any certificate under this Act, and any person who shall sign any certificate under this Act, in which he shall be described as a physician, surgeon, or apothecary, (*l*) not being a physician, surgeon, or apothecary (*l*) respectively within the meaning of this Act, shall be guilty of a misdemeanor. (*k*)

Penalty on Officers or Servants ill-treating Lunatics.

CXXIII. If any superintendent, officer, nurse, (*m*) attendant, (*m*) servant, or other person employed in any asylum, strike, wound, ill-treat, or wilfully neglect any lunatic confined therein, he shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds nor less than two pounds. (*n*)

Penalty on Officers, etc., allowing Lunatics to escape or be at large without permission.

CXXIV. If any superintendent, officer, or servant (*o*) in any asylum shall, through wilful neglect or connivance, permit any patient in any case to quit or escape from such asylum, or be at large without such order as in this Act mentioned (save in the case of temporary absence authorised under the regulations of the committee of visitors), (*p*) or shall secrete, or abet, or connive at the escape of any such person, he shall for every such offence forfeit and pay any sum not more than twenty pounds nor less than two pounds. (*q*)

Visitors may sue and be sued in the name of their Clerk, whose Removal shall not abate action.

CXXV. Every committee of visitors may sue and be sued in the name of their clerk; and no action brought or commenced by or against any such committee of visitors in the

(*k*) ss. 126, 127, *post*.
(*l*) s. 132, *post*; and 25 & 26 Vict. c. 111, s. 47, *post*.
(*m*) s. 56, *ante*.
(*n*) ss. 126, 127, *post*. See also 8 & 9 Vict. c. 100, s. 56, *ante*.
(*o*) It will be observed that this section does not mention a "nurse," or an "attendant." See s. 123, *ante*.
(*p*) s. 79, *ante*.
(*q*) ss. 126, 127, *post*.

name of their clerk shall abate or be discontinued by the death or removal of such clerk, but the clerk for the time being to the visitors shall always be deemed plaintiff or defendant in such action, as the case may be. (*r*)

Secretary of Commissioners in Lunacy and Clerks to Visitors may prosecute for Offences.

CXXVI. It shall be lawful for the secretary of the Commissioners in Lunacy, by their order, to prosecute or proceed against any person for any offence against this Act, and for the clerk to any committee of visitors of any asylum, by their order, to prosecute or proceed against any person for any offence against this Act committed by any officer or servant belonging thereto or employed therein; and such secretary or clerk acting as the prosecutor or complainant in any such prosecution or proceeding shall be competent to be a witness therein, in the same manner as if he were not such prosecutor or complainant; and no such prosecution or proceeding shall abate or be discontinued by reason of the death or removal of such secretary or clerk, but his successor shall come and be in his place. (*s*)

Penalties to be recovered in manner provided by 11 & 12 *Vict. c.* 43.—*Application of Penalties.*

CXXVII. All penalties and forfeitures imposed by this Act shall and may be recovered summarily before two justices in manner provided by the Act of the twelfth year of Her Majesty, "to facilitate the Performance of the Duties of Justices of the Peace out of Sessions, within England and Wales, with respect to summary Convictions and Orders"; (*t*) and such penalties and forfeitures, when recovered upon proceedings taken by the secretary of the Commissioners, shall be paid to such secretary, and be applied and accounted for by him in like manner as money received for licences for the reception of lunatics granted by the said Commissioners, (*u*) and when recovered upon

(*r*) s. 26, *ante*. *Kendal* v. *King*, 17 C. B. 483; *Devenish* v. *Brown*, 26 L. J. R. (N.S.) ch. 23.

(*s*) As to the clerk to the visitors, see s. 26, *ante*.

(*t*) See also, the Small Penalties Act, 1865, 28 & 29 Vict. c. 127; the Local Stamp Act, 1869, 32 & 33 Vict. c. 49; and the Debtors' Act, 1869, 32 & 33 Vict. c. 62.

(*u*) 8 & 9 Vict. c. 100, s. 33, *ante*.

proceedings taken by the clerk to any committee of visitors of any asylum shall be paid to the treasurer of such asylum, to be by him applied for the purposes of such asylum in such manner as such committee may think fit and direct, and in all other cases shall be paid to the treasurer of the county or borough for which the justices by whom the person convicted of such offence have acted in such conviction. (*v*)

Power of Appeal to the Quarter Sessions.

CXXVIII. Any person (*w*) who thinks himself aggrieved by any order (*w*) or determination of any justices under this Act, other than orders adjudicating as to the settlement of any lunatic pauper, and providing for his maintenance, may, within four calendar months after such order or determination made or given, appeal to the general or quarter sessions, the person appealing having first given at least (*x*) fourteen clear days' notice in writing of such appeal and the nature and matter thereof to the person appealed against, and forthwith after such notice entering into a recognisance before some justice of the peace, with two sufficient sureties, conditioned to try such appeal, and to abide the order and award of the said court thereupon; and the said general or quarter sessions, upon proof of such notice and recognisance having been given and entered into, shall in a summary way hear and determine such appeal, or, if they think proper, adjourn the hearing thereof until the next general or quarter sessions, and if they see cause may reduce any penalty or forfeiture to not less than one-fourth of the amount imposed by this Act, and may order any money to be returned which shall have been levied in pursuance of such order or determination, and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties, as they shall judge reasonable and proper; and all such determinations of the said general or quarter ses-

(*v*) This sentence seems incomplete.

(*w*) The word "person" as here used does not include overseers or guardians of the poor; and the word "order" does not apply to an order made under s. 96.—*Kettering Union* v. *Northampton Asylum*, 34 L. J. R (N.S.) M. C. 198; 13 L. T. (N.S.) 199; 11 Jur. (N.S.) 999; 6 B & S. 653: see note (*i*) to s. 96, *ante*.

(*x*) *Reg.* v. *Shropshire JJ.*, 8 A & E. 173.

sions shall be final, binding, and conclusive upon all parties to all intents and purposes whatsoever.

Council of every Borough to exercise the same Duties, etc. of erecting Asylums as are conferred upon Justices, etc.

CXXIX. The council of every borough which shall within six months after the passing of this Act, by writing under their common seal, give notice to one of Her Majesty's principal Secretaries of State of the intention of such council to take upon itself the duties, powers, and authorities hereinbefore imposed or conferred upon or given to the justices of the borough, (*y*) shall from and after the giving of such notice be subject to and have and exercise all the duties, powers, and authorities of and for erecting and providing asylums and carrying into execution the purposes of this Act which by this Act are imposed or conferred upon or given to the justices of such borough, or upon any committee of visitors to be appointed as directed by this Act, and all liabilities and contracts incurred or entered into by such justices or committee on behalf of such borough under this Act, or any Act hereby repealed, [1](*z*) shall thereupon become transferred to and obligatory upon such council to the same extent as they would have been binding or obligatory on such justices or committee, and all matters and things which in this Act are required to be done at any general or quarter sessions, or at any meeting of the justices of such borough, may and shall thenceforth be done at any meeting of the council of such borough, and all notices which by this Act are required to be given to or by the clerk of the peace shall and may thenceforth be given to or by the town clerk of such borough.

Committee appointed by Council to have same Powers as Committee of Visitors.

CXXX. It shall and may be lawful for the council of any such borough to confer upon any committee to be appointed by such council such of the powers and authorities which by this Act are conferred upon any committee of visitors to be appointed thereunder as to such council shall seem fit. (*y*)

(*y*) 18 & 19 Vict. c. 105, s. 6, *post*.
(*z*) See s. 1, *ante*.

Every City, Town, Liberty, etc., not being a Borough within the meaning of this Act, to be annexed to and rated as part of the County within which the same is situate.

CXXXI. Every city, town, liberty, parish, place, or district, not being a borough or part of a borough within the meaning of this Act, (*a*) shall for all the purposes of this Act be annexed to and be treated and rated as part of the county (*a*) within which the same is situate, or if such city, town, liberty, parish, place, or district be situate partly in one county and partly in another, then to and as part of such one of the same counties as such city, town, liberty, parish, place, or district may have been annexed to under the said Act of the eighth and ninth years of Her Majesty, hereby repealed, (*b*) or if not already so annexed, then to and as part of such one of the same counties as one of Her Majesty's principal Secretaries of State shall by writing under his hand and seal direct, and shall contribute rateably to the expenses of the asylum of the county to which it is or shall be so annexed, whether such asylum have been provided before or after the passing of this Act, and shall for the purposes of this Act be within the jurisdiction of the justices of such county; (*c*) and in every case in which any such city, town, liberty, parish, place, or district as aforesaid is or shall be annexed to a county in which an asylum has been or shall have been already erected or provided, and such city, town, liberty, parish, place, or district shall not have contributed as provided by law towards the expenses incurred in erecting or providing such asylum, the present or any future committee of visitors of such asylum shall, as soon as conveniently may be after the passing of this Act, or after such annexation, fix a sum to be paid by the city, town, liberty, parish, place, or district so annexed towards the expenses then already incurred in erecting or providing such asylum, in due proportion to the population of such city, town, liberty, parish, place, or district, and of the county to which it shall be annexed, according to the last returns under the authority of Parliament, and the same shall be paid by every such city,

(*a*) As to the meaning of the words "county" and "borough," see s. 132, *post*, and the notes thereon.
(*b*) 8 & 9 Vict. c. 126; repealed by the present Act: see s. 1, *ante*.
(*c*) See also s. 46, *ante*.

town, liberty, parish, place, or district to the treasurer of such asylum, and shall be levied and raised by such city, town, liberty, parish, place, or district by a rate to be made therein in the same manner as any rate to be made therein for the purpose of levying or raising any other monies hereby directed to be levied and raised for the purposes of this Act; and the justices for the county to which such city, town, liberty, parish, place, or district is or shall be annexed as aforesaid, in general or quarter sessions, are hereby authorised and required to make such rate as aforesaid; and the sum so paid by such city, town, liberty, parish, place, or district shall be applied by the treasurer of the asylum to whom the same shall have been paid in such manner as the committee of visitors shall direct, according to the provisions and for carrying into execution the purposes of this Act. (*d*)

Interpretation of Terms.

CXXXII. In this Act the words and expressions following shall have the several meanings hereby assigned to them, (*e*) unless there be something in the subject or context repugnant to such construction; (that is to say),

"County" shall mean every county, (*f*) riding, and division of a county, county of a city, (*f*) county of a town, (*f*) and shall include every city, town, parish, place, or district by this Act annexed to a county for the purposes hereof: (*f*)

"Borough" shall mean every borough, town, and city corporate having a quarter sessions, recorder, and clerk of the peace:

"Parish" shall mean any parish, township, vill, tithing, extra-parochial place, (*f*) or place maintaining its own poor:

"Union" shall mean a union of parishes formed under the Act of the fifth year of King William the Fourth, inti-

(*d*) See also s. 46, *ante*, as well as the definition of the term "treasurer of the county," in s. 132, *post*.

(*e*) 18 & 19 Vict. c. 105, s. 19, *post;* 25 & 26 Vict. c. 111, ss. 1, 2, 47, 48, *post;* and 26 & 27 Vict. c. 110, *post*.

(*f*) See 25 & 26 Vict. c. 111, s. 48, *post;* 26 & 27 Vict. c. 110, preamble, and s. 1, *post;* and 28 & 29 Vict. c. 80, *post; Reg.* v. *St. Maurice*, 16 Q. B. 908 (under 8 & 9 Vict. c. 126). See also s. 131, *ante*. As to the county of Sussex, see 28 Vict. c. 37; and as to the county of Hertford and Liberty of St. Alban, see 37 & 38 Vict. c. 45. As to extra-parochial places, see 20 Vict. c. 19

tuled, "An Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in England and Wales," or under the Act of the twenty-second year of King George the Third, intituled "An Act for the better Relief and Employment of the Poor," or incorporated or united for the relief or maintenance of the poor under any local act: (*g*)

"Lunatic" shall mean and include every person of unsound mind, and every person being an idiot:

"Pauper" shall mean every person maintained wholly or in part by or chargeable to any parish, union, or county:

"Justice" shall mean justice of the peace:

"Officiating Clergyman of the Parish" shall include the chaplain of the workhouse of the same parish, or of the workhouse of a union to which such parish belongs:

"Guardians" shall mean guardians, governors, directors, managers, or acting guardians, entitled to act in the ordering of relief to the poor from poor rates: (*h*)

"Overseer" shall mean overseer of the poor of any parish, or any person acting as such:

"Relieving Officer" and "Clerk of the Guardians" shall respectively mean such relieving officer and clerk of the guardians, and any person acting as such respectively:

"Clerk of the Peace" shall mean every clerk of the peace

(*g*) By 7 & 8 Vict. c. 101, s. 28, it was enacted as follows:—"The guardians of every parish or union appointed under any local Act, and their officers appointed to act in the relief of the poor, and their clerks, shall, from and after the passing of this Act, have the like powers and shall be liable to perform the same duties with respect to insane persons as are provided in the case of guardians appointed under the provisions of the said first recited Act (*i.e.*, 4 & 5 Wm. iv. c. 76), their relieving officers and their clerks respectively." The 7 & 8 Vict. c. 101, was passed 9th August, 1844, and at that time the 9 Geo. iv. c. 40, and 5 & 6 Vict. c. 57, s. 6, were in force; but in 1845 the 9 Geo. iv. c. 40, was repealed by 8 & 9 Vict. c. 126, which was itself repealed in 1853 by 16 & 17 Vict. c. 97. (See Introduction, *ante*, p. 296.) The 7 & 8 Vict. c. 101, s. 28, was repealed in 1874 by 37 & 38 Vict. c. 96, as well as the 5 & 6 Vict. c. 57, s. 6 (see note (*n*) to 16 & 17 Vict. c. 97, s. 64, *ante*). It will be observed that the words "union" and "guardians," as above interpreted (s. 132), include unions formed and guardians appointed under local Acts. They also refer to Gilbert's Act (22 Geo. iii. c. 83), but no union formed under that Act now exists; see note (*q*) to s. 97, *ante*, and the Act itself was repealed in 1871 by 34 & 35 Vict. c. 116.

(*h*) See preceding note.

and every person acting as such, or any deputy duly appointed:

"Physician," "Surgeon," and "Apothecary" shall respectively mean a physician, surgeon, and apothecary duly authorised or licenced to practise as such by or as a member of some college, university, company, or institution legally established, and qualified to grant such authority or licence, in some part of the United Kingdom, or having been in practice as an apothecary in England or Wales on or before the fifteenth day of August, one thousand eight hundred and fifteen, and being in actual practice as a physician, surgeon, or apothecary. (*i*)

"Treasurer of the Borough" shall mean every officer who has the custody of any monies raised by a borough rate:

"Treasurer of the County" shall mean every officer who has the custody of any county rate, or of any rate of any city, town, parish, place, or district by this Act annexed to a county for the purposes hereof: (*j*)

"County Rate" shall mean a county rate, and any funds assessed upon or raised in or belonging to any county in the nature of county rates, and applicable to the purposes to which county rates are applicable:

"Borough Rate" shall mean a borough fund or rate, and any funds assessed upon or raised in or belonging to any borough in the nature of borough rates, and applicable to the purposes to which borough rates are applicable:

48 *Geo. III. c.* 96—9 *Geo. IV. c.* 40.

"Asylum" shall mean any asylum, house, building, or place already erected or provided under the provisions of an Act passed in the forty-eighth year of King George the Third, chapter ninety-six, or an Act of the ninth year of King George the Fourth, chapter forty, or the said Acts hereby repealed, or any of them, or subject to the provisions of the said Acts or any of them, or to be erected or provided under the provisions of this Act. (*k*)

(*i*) 17 & 18 Vict. c. 114, s. 2, *post;* 25 & 26 Vict. c. 111, s. 7, *post.* See also the Medical Act, 21 & 22 Vict. c. 90, s. 36, *ante.*

(*j*) s. 131, *ante.*

(*k*) 25 & 26 Vict c. 111, s. 1, *post.*

Nothing to affect Provisions of 39 & 40 *Geo. III. c.* 94, 1 & 2 *Vict. c.* 14, *or* 3 & 4 *Vict. c.* 54, *as to Criminal Lunatics.*

CXXXIII. Nothing in this Act shall affect the provisions of any of the following Acts; (that is to say,) an Act of the session holden in the thirty-ninth and fortieth years of King George the Third, chapter ninety-four; an Act of the session holden in the first and second years of Her Majesty chapter fourteen; and an Act of the session holden in the third and fourth years of Her Majesty, chapter fifty-four; or any other provisions relating to criminal lunatics. (*l*).

Commencement of Act.

CXXXIV. This Act shall commence and come into operation on the first day of November, one thousand eight hundred and fifty-three.

Extent of Act.

CXXXV. This Act shall extend only to England and Wales.

Short Title.

CXXXVI. This Act may be cited as "The Lunatic Asylums Act, 1853."

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A). (*m*)

FORM of AGREEMENT for uniting under the foregoing Act for the purpose of erecting or providing an asylum for the Reception of Lunatics.

It is agreed this day of by and between the Committees of Justices of the Peace for the County [*or* Counties] and the Borough [*or* Boroughs] of and the Committee of the Subscribers of the Lunatic Hospital of [*as the case may be*], severally appointed to treat for the uniting of the said County and Borough [*or* Counties and Boroughs] [and Lunatic

(*l*) See "Statutes relating to Criminal Lunatics," *post.*
(*m*) s. 14, *ante;* and 18 & 19 Vict. c. 105, s. 13, *post.*

Hospital, *as the case may be*], for the purposes of an Act passed in the year of Her Majesty Queen Victoria, intituled "An Act" [*here insert the title of this Act*], that the said County [*or* Counties] and Borough [*or* Boroughs, and the said Lunatic Hospital, *as the case may be*], shall henceforth be united for the purposes of the said Act; and that an Asylum for the reception of Lunatics, with all necessary buildings, courts, yards, and outlets, shall be immediately provided and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary expenses attending the providing, building, fitting up, repairs, and maintenance of the said Asylum, shall be defrayed by the said County [*or* Counties] and Borough [*or* Boroughs and Lunatic Hospital], so united, in the following proportions; (that is to say,)

The County of — five-ninths of the said expenses.

The Borough of — two-ninths of the same.

The Lunatic Hospital of — two-ninths of the same [*as the case may be*].

And it is further agreed, that the Committee of Visitors to superintend the building, erection, and management of the said Asylum shall be appointed in the following proportions: the Justices of the Peace for the said County of shall appoint* , the Justices of the Peace for the Borough of shall appoint* , and the Subscribers to the said Lunatic Hospital of shall appoint* , and the proportions in which the said Committee of Visitors are to be appointed as aforesaid may be from time to time varied, with the consent in writing under the hands of the greater number of Visitors of the said County and Borough [*or* each of the said Counties and Boroughs], and of the greater number of the Visitors appointed by the said body of Subscribers, and with the consent of the Commissioners in Lunacy: and hereunto we, the undersigned, being the major part of each of the Committees

* Insert in these blanks either the number or the proportion of Visitors; and where the number of the Committee of Visitors is not fixed in the agreement, but only the proportions, a provision shall be made by the agreement for fixing from time to time the number of such Committee.

of Justices of the Peace for the said County and Borough [*or* Counties and Boroughs] respectively, and the major part of the Committee of Subscribers to the said Lunatic Hospital, do, on behalf of the said County and Borough [*or* Counties and Boroughs] and Lunatic Hospital, set our hands and seals, this day of in the year .

SCHEDULE (B). (*n*)

Form of Mortgage and Charge upon the County or Borough Rates for securing the Money borrowed.

We, the Chairman of the Court of Quarter Sessions of the Peace of the County of holden at the day of and two other of Her Majesty's Justices of the Peace for the said County, assembled in the said Court [*or* We, the Mayor and Council of the Borough of *as the case shall be*], in pursuance of the powers to us given by an Act passed in the year of Her Majesty Queen Victoria, intituled "An Act" [*here insert the title of this Act*], do hereby mortgage and charge all the Rates and Funds to be raised and paid within the said County [*or* Borough, *as the case may be*], under the description of County Rates [*or* Borough Fund or Rates], with the payment of the sum of which of hath advanced and paid towards defraying the expenses of purchasing lands, and for building and repairing, *etc.* [*as the case shall be*] a Lunatic Asylum for the said County [*or* Borough, *or* the united Counties and Boroughs of, *etc.*, *as the case may be*], and we do hereby grant and confirm the same Rates and Funds unto the said his executors, administrators, and assigns, for securing the repayment of the said sum of and interest for the same after the rate of per centum per annum, and do order the Treasurer for such County [*or* Borough, *etc.*, *as the case shall be*] to pay the interest of the said sum of half-yearly, as the same

(*n*) ss. 47–52, *ante*. The Act contains no exemption from stamp duty.

shall become due, until the principal shall be discharged, at the times and in the manner agreed upon between the said and the said Justices [*or* the said Mayor and Council, *as the case may be*], pursuant to the directions of the said Act. (*o*)

SCHEDULE (C), No. 1. (*p*)

NAMES of all PAUPER LUNATICS in the Asylum at for the County [*or* Borough, *etc.*, *as the case may be*] of on the day of 18 .

Names of those chargeable to a Parish. (*q*)	Da te of Admission.	Names of those chargeable to County.	Date of Admission.	Names of Criminals.

This is a correct return.

(Signed)

Clerk of the Asylum.

Dated

(*o*) It will be observed that the terms of the agreement are not required by the above form to be set out in the mortgage; but there should, of course, be some proper and sufficient evidence of those terms. They may be added to or embodied in the mortgage, if deemed expedient. See s. 47, *ante*, which requires the instrument to be in the form contained in schedule B, "or to that or the like effect." With regard to the order of priority among several lenders, see s. 49, *ante*.

(*p*) s. 63, *ante*.

(*q*) This column must be understood to include paupers chargeable to the common fund in unions (see 16 & 17 Vict. c. 97, s. 102; 24 & 25 Vict. c. 55, s. 6; and 28 & 29 Vict. c. 79). The return is to include *all* pauper lunaties in the asylum.

SCHEDULE (C), No. 2. (*r*)

NAMES of all PRIVATE LUNATICS in the Asylum at for the County [*or* Borough, *etc.*, *as the case may be*] of on the day of 18 .

Names.	Date of Admission.
.	.

This is a correct list.

(Signed)

Clerk to the Asylum.

Dated

SCHEDULE (D). (*s*)

FORM OF ANNUAL RETURN.

A TRUE LIST of all LUNATICS, IDIOTS, and other Persons of unsound Mind, chargeable to the Common Fund, (*t*) or to the Parishes (*t*) comprised within [such part of] the Union [as is situate] [*or* to the Parish of] in the County of specifying the Names, Sex, and Age of each, and whether dangerous or otherwise, and for what length of time they have been supposed to be of un-

(*r*) s. 63, *ante*.

(*s*) s. 64, *ante*.

(*t*) This return is to include *all* the pauper lunatics belonging to the union, whether chargeable to any of the parishes, or to the common fund, either under 16 & 17 Vict. c. 97, s. 102, or under 24 & 25 Vict. c. 55, s. 6, or under 28 & 29 Vict. c. 79. It will be observed that the note to the schedule, as well as the heading, refers to "lunatics chargeable to the common fund," although the column for the entry of the chargeability mentions only the "parish to which chargeable." A pauper lunatic receiving non-resident relief should be entered in the return made for the union or parish to which the relief is charged.

sound mind, and where detained, or how otherwise disposed of.*

Name.	Age.	Sex.	(*u*) Parish to which chargeable.	Where maintained.					Weekly Cost of Maintenance and Clothing.	Whether Lunatic or Idiot.	Dangerous to himself or others.	Of dirty Habits.	For what length of time supposed to be of unsound Mind.	Observations.
				In a County or Borough Asylum, and what Asylum, and when sent thither.	In a registered Hospital or licenced House, and where and when sent thither.	In the Workhouse.	In Lodgings, or boarded out, and where, and with whom, by Name.	Residing with Relatives, and where, and with whom, by Name.						

Signed by me this day of 18 . (*v*)

A.B.

Clerk to the Board of Guardians of the said Union,
[*or* Overseer of the said Parish].

* Lunaties chargeable to the common fund, who are in the workhouse, should be entered as in the county where the workhouse is situate; and those who are not in the workhouse, as in the county in which they reside.

SCHEDULE (E). (*w*)

[Repealed by 25 & 26 Vict. c. 111, s. 21, *post.*]

(*u*) See note (*t*) in preceding page.

(*v*) The clerk to the guardians (or the overseer) is required to make out this list "on the first day of January in every year or as soon after as may be" (see s. 64, *ante*); but the statute does not specify the particular day with reference to which the list is to be made up. The return, however, is a general one; and it is certainly desirable that the several lists, which are to be prepared throughout the whole country, and to be transmitted to the Commissioners in Lunacy and the Local Government Board, should have reference to the same date (viz., the first of January), although an interval may be allowed for their actual preparation. As to the information required for the preparation of the return, see the Poor Law Board's Circular, 31st January, 1865, and the letter of the Commissioners in Lunacy, 20th December, 1864, in Appendix, *post.*

(*w*) s. 66, *ante.*

SCHEDULE (F), No. 1. (*x*)

Order for the Reception of a Pauper Patient.

I, *C. D.* [*in the case of a single Justice of the Peace, or in the case of two Justices, or of a Clergyman and Relieving Officer, etc.*, We, *C. D.* and *E. F.*], the undersigned, having called to my [*or* our] assistance a Physician [*or* Surgeon, *or* Apothecary, *as the case may be*], and having personally examined *A. B.*, a pauper [*omit the words* "a Pauper" *when the Lunatic is not a Pauper*], and being satisfied that the said *A. B.* is a Lunatic [*or* an Idiot, *or* a Person of unsound Mind], [*add, where the Lunatic is sent as being wandering at large, the words* "wandering at large," *and in the case of a Lunatic sent by virtue of the authority given to two Justices, add,* "not under proper care and control," *or* "and is cruelly treated (*or* neglected) by the person having the care or charge of him," *as may appear to the Justices to be the case*], and a proper person to be taken charge of and detained under care and treatment, hereby direct (*y*) you to receive the said *A. B.*, as a Patient into your Asylum [*or* Hospital, *or* House]. Subjoined is a Statement respecting the said *A. B.*

(Signed) *C. D.*

*A Justice of the Peace for the City *or* Borough of [*or* an *or* the Officiating Clergyman of the Parish of].

(Signed) *E. F.*

The Relieving Officer of the Union *or* Parish of [*or* an Overseer of the Parish of].

Dated the day of one thousand eight hundred and

* To be signed by two Justices, where required by the foregoing Act.

(*x*) See s. 67, *ante*; s. 68, *ante*; s. 73, *ante*; and as to amendment, if incorrect or defective, s. 87, *ante*. See also 25 & 26 Vict. c. 111, ss. 25, 26, *post*; and ss. 31, 32, 33, *post*. Introduction, *ante*, pp. 80–82; pp. 309–311, pp. 319, 320.

(*y*) It will be observed that this order contains a direction, and not a mere request: compare the form, No. 2, *post*. But as to hospitals and licenced houses, see s. 78, *ante*.

To Superintendent of the Asylum for the
County of *or* the Lunatic Hospital of
or Proprietor of the Licenced House of [*describing the Asylum, Hospital, or House*].

NOTE.—Where the Order directs the Lunatic to be received into any Asylum other than an Asylum of the County or Borough in which the Parish or Place from which the Lunatic is sent is situate, or into a registered Hospital or licenced House, it should state that the Justice or Justices or other Persons making the Order is or are satisfied that there is no Asylum of such County or Borough, or that the Asylum or Asylums thereof is or are full; or (as the case may require) the special circumstances by reason whereof the Lunatic cannot conveniently be taken to an Asylum for such first-mentioned County or Borough. (*z*)

STATEMENT.

[*If any Particulars in this Statement be not known, the fact to be so stated.*] (*a*)

(*b*) Name of Patient, and Christian Name, at length.
Sex and Age.
Married, single, or widowed.
Condition of Life, and previous Occupation (if any).
The Religious Persuasion, as far as known.
Previous Place of Abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under Care and Treatment.
Duration of existing attack.
Supposed Cause.
Whether subject to Epilepsy.
Whether suicidal.
Whether dangerous to others.
Parish or Union to which the Lunatic is chargeable (if a Pauper or destitute Lunatic).
Name and Christian Name and Place of Abode of the

(*z*) s. 72, *ante;* s. 78, *ante.*
(*a*) *Re* Shuttleworth, 9 Q. B. 651; *ante*, p. 286.
(*b*) In the case of a lunatic found wandering at large, the Poor Law Commissioners and the Commissioners in Lunacy have expressed an opinion that, if his name cannot be ascertained, he may be properly described in the order, statement, and certificate, as of "name unknown." ("Official Circular," 1st January, 1846, No. 55, p. 10.)

nearest known Relative of the Patient, and degree of Relationship (if known). (*c*)

I certify that to the best of my knowledge the above Particulars are correctly stated.

(Signed)

[*In the case of a Pauper, to be signed by the Relieving Officer or Overseer.*]

SCHEDULE (F), No. 2. (*d*)

Order for the Reception of a Private Patient.

I, the undersigned, hereby request (*e*) you to receive *A. B.*, a Lunatic [*or* an Idiot, *or* a Person of unsound Mind], as a Patient into your Asylum. Subjoined is a Statement respecting the said *A. B.*

(Signed) Name.
Occupation (if any).
Place of Abode.
Degree of Relationship (if any), or other circumstances of connexion with the Patient. (*f*)

Dated (*g*) this day of one thousand eight hundred and

To Superintendent of the Asylum for the County [*or* Borough] of [*describing the Asylum*].

Statement.

[*If any of the Particulars in this Statement be not known, the fact to be so stated.*] (*h*)

Name of Patient, with Christian Name at length.

(*c*) See 25 and 26 Vict. c. 111, s. 25, *post*.
(*d*) See s. 43, *ante*; s. 74, *ante*; and 25 and 26 Vict. c. 111, ss. 22, 23, 25, 26, *post*.—As to amendment, if incorrect or defective, see 16 & 17 Vict. c. 97, s. 87, *ante*. Introduction, *ante*, pp. 78–80.
(*e*) It will be observed that this document, though termed an "Order," is in fact a mere request: compare the form, No. 1, *ante*.
(*f*) See 25 & 26 Vict. c. 111, s. 25, *post*.
(*g*) See 25 & 26 Vict. c. 111, s. 23, *post*.
(*h*) *Re* Shuttleworth, 9 Q. B. 651, *ante*, p. 286.

Sex and Age.
Married, single, or widowed.
Condition of Life, and previous Occupation (if any).
The Religious Persuasion, as far as known.
Previous Place of Abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under Care and Treatment.
Duration of existing attack.
Supposed Cause.
Whether subject to Epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether found lunatic by Inquisition, and date of Commission or Order for Inquisition. (*i*)
Special Circumstances (if any) preventing the Patient being examined, before admission, separately by two Medical Practitioners. (*j*)

(Signed) Name.

Where the person signing the Statement is not the person who signs the Order, the following Particulars concerning the person signing the Statement are to be added: viz:—

Occupation (if any).
Place of Abode.
Degree of Relationship (if any), or other circumstances of connexion with the Patient. (*k*)

SCHEDULE (F), No. 3. (*l*)

FORM OF MEDICAL CERTIFICATE. (*m*)

I, the undersigned [*here set forth the qualification entitling*

(*i*) See 25 & 26 Vict. c. 111, s. 22, *post*.
(*j*) See s. 74, *ante*.
(*k*) See 25 & 26 Vict. c. 111, s. 25, *post*.
(*l*) See also the notes to 16 & 17 Vict. c. 96, schedule A, No. 2, *ante*, and schedule B, No. 2, *ante;* and the cases there referred to.
(*m*) See ss. 67, 68, 69, 73, 74, 75, 76, and 122, *ante*. See also 25 & 26 Vict. c. 111, s. 32, *post;* and the Instructions of the Commissioners in Lunacy, Appendix, *post*. As to amendment, if incorrect or defective, see s. 87, *ante*, and 25 & 26 Vict. c. 111, s. 27, *post;* Introduction, *ante*, pp. 80–82; p. 309; and pp. 319, 320.

the person certifying to practice as a Physician, Surgeon, or Apothecary, ex. gra., "being a Fellow of the Royal College of Physicians in London"], (*n*) and being in actual practice as a [Physician, Surgeon, *or* Apothecary, *as the case may be*], hereby certify, that I, on the day of at [*here insert the street and the number of the house* (*if any*) *or other like particulars*], in the County of [*in any case where more than one Medical Certificate is required by this Act, here insert* separately from any other Medical Practitioner], personally examined *A. B.* of [*insert residence and profession or occupation, if any*] and that the said *A. B.* is a [Lunatic, *or* an Idiot, *or* a Person of unsound mind], and a proper Person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz.:—

1. Facts indicating Insanity observed by myself [*here state the facts*].

2. Other facts (if any) indicating Insanity communicated to me by others [*here state the information, and from whom*].

(Signed)

Place of Abode.

Dated this day of one thousand eight hundred and

SCHEDULE (F), No. 4. (*o*)

Notice of Admission.

I HEREBY give you notice, that *A. B.* was admitted into this Asylum as a Private [*or* Pauper] Patient on the day of and I hereby transmit a Copy of the Order and Statement and Medical Certificates [*or* Certificate] on which he was received.

(*n*) See 25 & 26 Vict. c. 111, s. 47, *post*; and *Reg.* v. *Minster*, 14 Q. B. 349.

(*o*) s. 89, *ante*, and 25 & 26 Vict. c. 111, s. 28, *post*. In the case of a private patient, the "Notice" and accompanying documents are to be sent within one clear day, but the "Statement" is to be sent after two and within seven clear days. Certain verbal alterations in the above forms are required to be made accordingly.

[*If a Private Patient be received upon one Certificate only, the special circumstances which have prevented the Patient from being examined by two Medical Practitioners to be here stated, as in the Statement accompanying the Order for Admission.*] (*p*)

Subjoined is a Statement with respect to the mental and bodily condition of the above-named Patient.

(Signed)
Clerk of Asylum.
Dated the day of one thousand eight hundred and

STATEMENT.

I have this day [*some day not less than two clear days after the admission of the Patient*] seen and examined the Patient mentioned in the above Notice, and hereb certify that with respect to mental state he [*or* she] and that with respect to bodily health and condition he [*or* she]

(Signed)
Medical Officer of Asylum.
Dated the day of one thousand eight hundred and

SCHEDULE (F), No. 5.

FORM OF NOTICE OF DISCHARGE, (*q*) REMOVAL, (*q*) OR DEATH. (*r*)

I HEREBY give you Notice, that Pauper [*or* a Private] Patient, admitted into this Asylum on the day of was discharged therefrom recovered [*or* relieved, *or* not improved], *or* was removed to [*mentioning*

(*p*) s. 74, *ante*, and Schedule F, No. 2, *ante*.
(*q*) s. 93, *ante*.
(*r*) s. 92, *ante*. As to notice to the Coroner, see 25 & 26 Vict. c. 111, s. 44, *post*.

the Asylum, etc.] relieved [*or* not improved], by the authority of , [*or* died therein in the presence of], on the day of

(Signed)

Clerk of the Asylum.

Dated the day of one thousand eight hundred and .

In case of death add, "I certify that the apparent cause of death of the said [as ascertained by post mortem examination (*s*) (*if so*)] was ."

(Signed)

Medical Officer of the Asylum.

(*s*) Whenever practicable, the consent of the relatives should be obtained before proceeding with such examination. As to the notice of the death, to be given to the relatives, see 25 & 26 Vict. c. 111, s. 25, *post*.

SCHEDULE

REGISTRY OF

REGISTER OF

Date of last previous Admission (if any).	No. in Order of Admission.	Date of Admission.	Christian and Surname at Length.	Sex.		Age.	Condition as to Marriage.			Condition of Life and previous Occupation.	Previous Place of Abode.	County, Union, or Parish to which chargeable.		By whose Authority sent.
				M.	F.		Married.	Single.	Widowed.					
	1	1846: Jan. 3	William Johnson	1	–	23	–	1	–	Carpenter.	–	–	–	–
	2													
	3													
	4	1848: June 9	William Johnson	1	–	25	–	1	–	–	–	–	–	–
	5													
	6													
	7	1852: May 6	William Johnson	1	–	29	1	–	–	–	–	–	–	–
	8													

* In the case of an asylum receiving both private and pauper patients,

(*a*) s. 89, *ante*.

(G), No. 1. (*a*)

ADMISSIONS.

Patients.*

Dates of Medical Certificates, and by whom signed.	Form of Mental Disorder.	Supposed Cause of Insanity.	Bodily Condition, and Name of Disease, if any.	Epileptics.	Congenital Idiots.	Duration of existing Attacks.			Number of previous Attacks.	Age on first Attack.	Date of Discharge, Removal, or Death.	Discharged or Removed.				Observations.
						Years.	Months.	Weeks.				Recovered.	Relieved.	Not improved.	Died.	
– –	Melancholia	–	– –	–	–	–	4	–	2	17	1846: Sept. 1	1				
– –	– –	–	– –	–	–	7	–	–	3	–	1848: Dec. 2	1				
– –	– –	–	– –	–	–	3	–	–	4	–	1853: June 8					

* A separate register in the above form to be kept for each class.

SCHEDULE (G), No. 2. (*a*)

REGISTER OF DISCHARGES, REMOVALS, AND DEATHS.*

Date of Death, Discharge, or Removal.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex.		Discharged.						Removal, and to what Asylum, registered Hospital, or licenced House.				Died.		Assigned Cause of Death.	Age at Death.		Observations.
						Recovered.		Relieved.		Not improved.		Relieved.		Not improved.							
				M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		M.	F.	
1846: Sept. 1.	1846: Jan. 3.	1	William Johnson	1	–	1															
1848: Dec. 2.	1848: June 9.	4	William Johnson	1	–	1															
1853: June 8.	1852: May 6.	7	William Johnson	1	–	–	–	–	–	–	–	–	–	–	–	1	–	Phthisis	27		

* In the case of an Asylum receiving both Private and Pauper Patients, a separate Register in the above form to be kept for each Class.

(*a*) s. 93, *ante*.

SCHEDULE (G), No. 3. (*a*)

FORM OF MEDICAL JOURNAL.*

Date.	Number of Patients.		Patients who are, or since the last Entry have been under Restraint or in Seclusion, when and for what Period, and Reasons, and, in case of Restraint, by what means.		Patients under Medical Treatment, and for what, if any, bodily Disorder.		Deaths, Injuries, and Violence to Patients since the last Entry.
	M.	F.	Males.	Females.	Males.	Females.	

* In the case of an Asylum receiving both Pauper and Private Patients, a separate Journal to be kept in the above form for each Class.

(*a*) s. 90, *ante*.

17 & 18 VICT. C. 114.

An Act to extend the Rights enjoyed by the Graduates of the Universities of Oxford and Cambridge in respect to the practice of Physic to the Graduates of the University of London.

[11*th August*, 1854.

WHEREAS a body politic and corporate, by the name of the University of London, has been constituted by the Royal Charter of Her present Majesty, with power after examination to confer the several degrees of bachelor of medicine and doctor of medicine: and whereas it is expedient that such and the same privileges relating to the practice of physic as are enjoyed by graduates in medicine of either of the Universities of Oxford and Cambridge, by virtue of their degrees, or under any authority or licence now conferred upon them by either of the said last-mentioned Universities, should be enjoyed by the graduates in medicine of the University of London: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Graduates in Medicine of the University of London to be entitled to practise Physic in the same manner as Graduates of the Universities of Oxford and Cambridge.

I. Every bachelor of medicine and doctor of medicine of the said University of London shall by virtue of his degree, and without the necessity of undergoing any further examination, or of obtaining any further authority or licence, be forthwith entitled to practise physic as fully, effectually, and extensively in all respects as any bachelor of medicine or doctor of medicine of either of the said Universities of Oxford and Cambridge is entitled to practise by virtue of his degree or under any power, licence, or authority now conferred by either of the said last-mentioned Universities: provided always that the privileges hereby conferred shall not be construed so as to extend to the practice of surgery, pharmacy, or midwifery.

Graduates in Medicine of the University of London indemnified for having acted without having obtained Authority from the Universities of Oxford and Cambridge.

II. And whereas it is apprehended that divers graduates in medicine of the said University of London are or may become exposed to divers forfeitures, pains, or penalties by reason of their having practised physic in all or some or one of its branches, or of their having done acts as or under the description of physicians, or practitioners of physic, in all or some or one of its branches, without any other qualification for so doing than their having studied for and obtained the medical degrees of the last-mentioned University, and in particular it is apprehended that under the Act passed in the session of Parliament in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-six, (*a*) and the Lunatic Asylums Act, 1853, (*b*) any graduate of the University of London practising as a physician, if not otherwise answering to the definition of a physician set forth in the interpretation clauses to such Acts, who may have signed any certificates under those Acts or either of them, in which he shall have been described as a physician, is liable to be indicted for a misdemeanor: be it enacted, that all such graduates in medicine of the said University of London who have so practised physic, or have so done any such act, or signed any such certificate as aforesaid, shall be indemnified, freed, and discharged from all such forfeitures, pains, penalties, and disabilities as they would or might have been exempt from had they taken their several degrees at or obtained authority or licence to practise from either of the said Universities of Oxford and Cambridge, and that all such acts and certificates heretofore done or signed by any graduate in medicine of the said University of London shall be deemed to all intents and purposes as valid and effectual as if this Act had passed previously to the doing or signing such acts and certificates respectively.

Short Title.

III. This Act may be cited as "The University of London Medical Graduates Act, 1854."

(*a*) 16 & 17 Vict. c. 96, s. 36, *ante*.
(*b*) 16 & 17 Vict. c. 97, s. 132, *ante*.

18 & 19 Vict. c. 105.

An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the ninth and seventeenth years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

[14*th August*, 1855.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite.

I. Section three of the Lunatic Asylums Act, 1853, shall extend to empower the justices of any one county or borough to authorise any committee of justices elected for such county or borough thereunder to treat and enter into an agreement for uniting with the subscribers to any such hospital as therein mentioned, and it shall not be necessary that any other county or borough be a party to such agreement; and section five of the said Act shall extend to empower any such committee of visitors as therein mentioned to enter into an agreement for uniting with the subscribers to any such hospital alone. (*a*)

The Proportion of Expenses between any County and Borough may be fixed with reference to the Accommodation likely to be required.

II. When two or more committees agree to unite under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, the proportion in which the expenses

(*a*) 16 & 17 Vict. c. 97, ss. 3, 4, 5, *ante*.

of carrying into execution the purposes of the said Act shall be charged upon and raised by each county and borough so uniting may be calculated and fixed according to the extent of the accommodation which in the judgment of the committees entering into such agreement will be required for the pauper lunatics of such county and borough respectively; and the power in section sixteen of the Lunatic Asylums Act, 1853, (*b*) of repealing or altering the stipulations of any agreement for uniting, shall extend to authorise the alteration thereof by readjusting the proportions in which the expenses aforesaid shall be charged on each county and borough and the subscribers (if any) uniting, or any of the said parties, and, where the committee of visitors think fit, by fixing as aforesaid, according to the probable extent of accommodation required, the proportion in which each county and borough is to contribute to such expenses; and where the proportions of any contributions are fixed according to the probable extent of accommodation required as aforesaid the agreement shall specify that such proportions are fixed according to that basis.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the time being, where not fixed according to foregoing Provision.

III. Where an agreement for uniting is hereafter entered into under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, and the proportion in which the expenses of carrying the purposes of the said Act into execution are to be charged upon each county and borough is not fixed, under the foregoing provision, (*c*) with reference to the probable extent of accommodation required, the agreement shall stipulate that such expenses, or, where any committee of subscribers of a lunatic hospital are a party to the agreement, then that the aggregate amount to be contributed by the counties and boroughs towards such expenses, shall be from time to time charged upon and raised by the counties and boroughs in proportion to their respective populations as stated in the last return for the time being

(*b*) 16 & 17 Vict. c. 97, s. 16, *ante*.
(*c*) s. 2 of this Act, *ante*.

made of the same under the authority of Parliament, and such agreement shall be varied from the form in schedule (A) to the Lunatic Asylums Act, 1853, accordingly. (*d*)

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Census for the time being.

IV. Where an agreement for uniting has been already entered into under the Lunatic Asylums Act, 1853, or any former Act, the expenses of carrying into execution any such Act, or where any committee of subscribers is a party to the agreement, the aggregate amount to be contributed by such counties and boroughs, shall be from time to time charged upon and raised by the counties and boroughs united, in proportion to their respective populations as stated in the last return for the time being made of the same under the authority of Parliament, save where such expenses are adjusted and fixed under the foregoing provision (*e*) according to the probable extent of accommodation required.

Where there is a Dissolution of a Union a new Asylum to be provided.

V. To the intent that due provision may be made for the reception and care of the pauper lunatics of counties and boroughs parties to unions upon the dissolution of such unions, (*f*) the justices of every county and borough united (either alone or with any subscribers) shall, before any dissolution of their union takes effect, at a general or quarter sessions for such county, or at a special meeting of the justices of such borough (as the case may require), elect a committee to provide an asylum for their county or borough, and authorise such committee to proceed for that purpose in manner by the Lunatic Asylums Act, 1853, provided in the case of a county or borough not having an asylum; and all the provisions of the said Act and this Act applicable to a committee elected to provide an asylum in the case of a county or borough not having an asylum shall be applicable to the committee elected under this provision.

(*d*) 16 & 17 Vict. c. 97, s. 14, *antè*; and schedule (A), *ante*.

(*e*) s. 2 of this Act, *ante*.

(*f*) 16 & 17 Vict. c. 97, s. 39, *ante*. And see the note thereon, as to the meaning of the word "union."

Provisions to apply to Councils of Boroughs where they have taken upon themselves the execution of the Lunatic Asylums Act, 1853.

VI. Where the council of a borough has taken upon itself under the Lunatic Asylums Act, 1853, or the Act of the session holden in the eight and ninth years of Her Majesty, chapter one hundred and twenty-six, the duties, powers, and authorities imposed or conferred upon or given to the justices of the borough, such council shall be subject to and have and exercise the duties, powers, and authorities by this Act imposed or conferred upon the justices of a borough, or any committee elected by them; and such council may confer upon any committee appointed by them such of the said duties, powers, and authorities as under this Act are or may be conferred upon a committee elected by the justices of a borough; and where the council of a borough had before the commencement of the Lunatic Asylums Act, 1853, taken upon itself under the said Act of the eighth and ninth years of Her Majesty, chapter one hundred and twenty-six, the duties, powers, and authorities imposed or conferred upon or given to the justices of the borough, such council shall, from the commencement of the Lunatic Asylums Act, 1853, be deemed to have been subject to and to have had the duties, powers, and authorities by that Act imposed or conferred upon the justices of a borough, or any committee elected by them, and to have been authorised to confer upon any committee appointed by such council such of the said duties, powers, and authorities as under such Act may be conferred upon a committee elected by the justices of a borough. (*g*)

Places becoming Boroughs after the commencement of the Lunatic Asylums Act, 1853, to be deemed Boroughs annexed to the Counties in which they are situate.

VII. Any place which has become a borough within the definition contained in section one hundred and thirty-two of the Lunatic Asylums Act, 1853, (*h*) since the commencement of that Act, shall, from and after the passing of this Act, be deemed to be a borough annexed to the county in

(*g*) 16 & 17 Vict. c. 97, ss. 129, 130, *ante*; and 8 & 9 Vict. c. 126, ss. 82, 83, now repealed (see 16 & 17 Vict. c. 97, s. 1, *ante*).
(*h*) 16 & 17 Vict. c. 97, s. 132, *ante*

which the same is situate, (*i*) and any place which after the passing of this Act becomes a borough within such definition shall, from and after the time of becoming such borough, be deemed a borough so annexed, (*i*) and the provisions contained in section nine in the Lunatic Asylums Act, 1853, for the appointment of two justices of a borough annexed thereunder to a county to be members of the committee of visitors of the asylum of such county, and in relation to the contribution by such borough to the expenses of the asylum of such county, shall extend to any borough annexed under this enactment. (*i*)

Powers given by sect. 77 of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics extended.

VIII. The power given by section seventy-seven of the Lunatic Asylums Act, 1853, to any two of the visitors of any asylum, being justices, to order any pauper lunatic chargeable to any parish or union within the county or borough, or any county or borough to which such asylum wholly or in part belongs, or to any such county, and who may be confined in any other asylum, or in any registered hospital or licenced house, to be removed to such first-mentioned asylum, shall be extended so as to authorise such visitors to order any pauper lunatic chargeable to any parish or union within any county or borough, or to any county for the reception of the pauper lunatics whereof into such first-mentioned asylum there is a subsisting contract, and who may be confined as aforesaid, to be removed to such first-mentioned asylum, and also to order any such pauper lunatic as hereinbefore mentioned to be removed from such first-mentioned asylum to any asylum, registered hospital, or licenced house, subject nevertheless to the restriction contained in section seventy-eight of the Lunatic Asylums Act, 1853. (*j*)

Powers of Commissioners and Visitors to continue applicable to a House which has been Licenced after Expiration of Licence, while any Patients are therein.

IX. The powers of the commissioners and visitors under

(*i*) 16 & 17 Vict. c. 97, s. 9, *ante*. See also 19 & 20 Vict. c. 87, *post*.

(*j*) 16 & 17 Vict. c. 97, ss. 77, 78, *ante*.

the Lunatic Asylums Act, 1853, and the Acts of the eighth and ninth years of Her Majesty, chapter one hundred, and the sixteenth and seventeenth years of Her Majesty, chapter ninety-six, with reference to any licenced house and the inmates thereof, and all powers and provisions of the said Acts having reference to the discharge, removal, and transfer of such inmates, shall, after the expiration or revocation of any licence granted in respect of such house, continue in force for all purposes, so long as any lunatics are detained therein, in the same manner as if the licence subsisted. (*k*)

Contracts under forty-second section of Lunatic Asylums Act, 1853, may be renewed.

X. Whereas doubts have been entertained whether under the forty-second section of the Lunatic Asylums Act, 1853, (*l*) a contract for the reception of pauper lunatics thereby authorised can be renewed: be it declared and enacted, that upon or after the expiration or other determination of any contract for any of the purposes of the said section it shall be lawful for every committee of visitors, under and subject to the several provisions of the said Act applicable thereto, from time to time to enter into a new contract for any of the purposes mentioned in the said section with the committee of visitors of any asylum, or with the subscribers to any hospital registered or the proprietor of any house licenced for the reception of lunatics, and for the committee of visitors of any asylum, (*m*) or the subscribers to any registered hospital or the proprietor of any licenced house, to contract with any committee of visitors accordingly.

Provision for Burial of Pauper Lunatics.

XI. Where the visitors of lunatic asylums for counties and boroughs in England, or any of their officers duly authorised in that behalf, shall undertake the burial of any pauper lunatic, and the burial cannot take place in the parish where the death shall have taken place by reason of the public burial ground of such parish having been closed, and no other

(*k*) See s. 18, *post;* and 8 & 9 Vict. c. 100, ss. 41, 42, *ante;* and s. 44, *ante.*

(*l*) 16 & 17 Vict. c. 97, s. 42, *ante.* See also 25 & 26 Vict. c. 111. s. 7, *post.*

(*m*) 25 & 26 Vict. c. 111, s. 6, *post.*

having been provided, or where, in consequence of the crowded state of such burial ground, the visitors as aforesaid are of opinion that the burial of such dead body therein would be improper, it shall be lawful to bury such body in a public burial ground of or in some other parish as near as conveniently may be to the parish wherein the death shall have taken place, with the consent of the minister and churchwardens of such parish: provided, that in all cases of burial under the direction of the visitors or their officers as aforesaid the fee or fees payable by the custom of the place where the burial may be, or under the provisions of any Act of Parliament, shall be paid by the said visitors for the burial of each such body to the person or persons who by such custom or under such Act of Parliament shall be entitled to receive such fee or fees. (*n*)

Power to enter into Agreements with Cemetery Company or Burial Board.

XII. The visitors of lunatic asylums in England may from time to time enter into agreements with the proprietors of any cemetery established under the authority of Parliament, or with any burial board duly constituted under the statutes in that behalf, for the burial of the dead bodies of any pauper lunatics which such visitors may undertake to bury; and thereupon the burial of any such body, under the directions of the said visitors or their officer, in such cemetery, or in the burial ground of such burial board, shall be lawful: (*o*) provided, however, that no such agreement shall be valid unless made in such form and with such stipulations as the Commissioners in Lunacy shall approve.

Committee of Visitors may convey Land for Burial Ground for Lunatics, etc., dying in the Asylum.

XIII. And whereas it is expedient that burial grounds should be provided for persons dying in any county or borough lunatic asylum built or to be built under the authority of any Act of Parliament for the reception of pauper lunatics: be it therefore enacted, that it shall be lawful for every

(*n*) See ss. 12, 13, of this Act, *post;* also 16 & 17 Vict. c. 97, s. 43, *ante;* s. 120, *ante;* 25 & 26 Vict. c. 111, ss. 9, 10, *post; Reg* v. *Stewart*, 12 A. & E. 773; and Introduction, *ante*, pp. 318, 319.

(*o*) See also s. 11, of this Act, *ante;* and the note thereon.

committee of visitors of any county or borough lunatic asylum, or for any trustees or trustee in whom any land shall be vested for the purposes of an asylum, with the previous consent of one of Her Majesty's principal Secretaries of State under his hand, to give, grant, and convey to Her Majesty's Commissioners for building new Churches, and it shall be lawful for them to accept, any portion not exceeding two statute acres of any land which belongs to or has been or may be purchased for any such asylum, for the purpose of consecration as a burial ground for pauper or other lunatics or officers or servants dying in such asylum, and that in all such cases the freehold of every burial ground, of which Her Majesty's said Commissioners shall accept a conveyance under the provisions of this Act for the purpose of consecration, shall, after the same burial ground shall have been consecrated, vest in the visitors or trustees or trustee, as the case may be, for the time being of the county or borough lunatic asylum to which such burial ground shall belong, and be for ever thereafter exclusively appropriated for the burial of pauper and other lunatics dying in such asylum, and of the officers and servants belonging to such asylum and dying therein; and that from and after the consecration of such land the incumbent of the parish in which such burial ground is situate shall not be entitled to any fee for the interment therein of any pauper or other lunatic dying in such asylum, or of any of the officers and servants belonging to such asylum and dying therein. (*p*)

XIV. [Repealed by 25 & 26 Vict. c. 111, s. 45, *post.*] (*q*)

Seals of Visitors and Justices to Orders, etc., dispensed with. (*r*)

XV. In all cases in which, under the Lunatic Asylums

(*p*) See also s. 11, of this Act, *ante;* and the note thereon.

(*q*) See *Birmingham* v. *Beaumont*, 27 L. J. R. (N.S.) M.C. 181; 4 Jur. (N.S.) 686; 30 L. T. 270; 29 L. J. R. (N.S.) M. C. 56; 6 Jur. (N.S.) 218; 33 L. T. 318. Since this decision, the 18 & 19 Vict. c. 105, s. 14, has been repealed, and a different enactment substituted, by 25 & 26 Vict. c. 111, s. 45, *post.*

(*r*) In some of the copies of this Act printed by the Queen's printers the marginal note to this section is as follows:—"Seals of Commissioners, visitors, and justices, to orders, etc. dispensed with;" but the insertion of the word "Commissioners" is an error.

Act, 1853, or the Act of the session holden in the eighth and ninth years of Her Majesty, chapter one hundred, or the Act of the session holden in the sixteenth and seventeenth years of her Majesty, chapter ninety-six, any order or other instrument is required to be under the hand and seal or hands and seals of any visitor or visitors, justice or justices, it shall be sufficient for such order or instrument to be signed only; and all such orders and instruments as aforesaid which have been signed before the passing of this Act, and have not had a seal or seals affixed to them, as by law required, shall be and be deemed to have been valid and sufficient to justify any proceeding thereon or thereunder.

So much of sect. 6 *of* 16 & 17 *Vict. c.* 96, *as requires personal examination of Patients repealed.*

XVI. So much of section six of the said Act of the sixteenth and seventeenth years of Her Majesty, chapter ninety-six, as requires such assent as therein mentioned of two of the Commissioners not to be given until after such Commissioners have by personal examination of the patient satisfied themselves of his desire to remain, shall be repealed. (*s*)

Consent of Committee of Management of any Hospital sufficient to authorise a Patient being sent to any place for health.

XVII. The superintendent of any registered hospital may, with the consent in writing of two members of the committee having the management or government of such hospital, send or take, under proper control, any patient to any specified place for any definite time for the benefit of his health; and any such consent, and any consent under section eighty-six of the said Act of the eighth and ninth years of Her Majesty, chapter one hundred, may be from time to time renewed and the place varied. (*t*)

Detention of Lunatics after Expiration of or Revocation of Licence a Misdemeanor.

XVIII. If after the lapse of two months from the expiration of any licence for the use of any house for the reception

(*s*) 16 & 17 Vict. c. 96, s. 6, *ante*. See also 25 & 26 Vict. c. 111, s. 18, *post*.

(*t*) 8 & 9 Vict. c. 100, s. 86, *ante*; and 25 & 26 Vict. c. 111, s. 38. *post*.

of lunatics which has not been renewed, or if after the revocation of any such licence there be in any such house two or more lunatics, (*u*) every person keeping such house, or having the care and charge of such lunatics, shall be guilty of a misdemeanor. (*v*)

Act to be read with the Acts amended as one Act.

XIX. This Act, so far as the same amends or affects the said Acts of the eighth and ninth years of Her Majesty, chapter one hundred, and of the sixteenth and seventeenth years of Her Majesty, chapter ninety-six, or either of them, shall be read and construed together with the said Acts as one Act, (*w*) and the provision contained in section one hundred and six of the said Act of the eighth and ninth years of Her Majesty shall extend to offences against this Act; (*x*) and this Act so far as the same amends or affects the Lunatic Asylums Act, 1853, shall be read and construed therewith as one Act. (*y*)

(*u*) See s. 9 of this Act, *ante*, and the note thereon.

(*v*) 8 & 9 Vict. c. 100, s. 106, *ante;* and see s. 19, of this Act, *post*.

(*w*) 8 & 9 Vict. c. 100, s. 114, *ante;* 16 & 17 Vict. c. 96, ss. 36, 37, *ante;* and 25 & 26 Vict. c. 111, ss. 1, 2, *post*, and s. 47, *post*.

(*x*) 8 & 9 Vict. c. 100, s. 106, *ante*.

(*y*) 16 & 17 Vict. c. 97, s. 132, *ante*. See also 25 & 26 Vict. c. 111, ss. 1, 2, *post;* ss. 47, 48, *post;* 26 & 27 Vict. c. 110, *post;* and 28 & 29 Vict. c. 89, s. 3, *post*.

19 & 20 Vict. c. 87.

An Act to amend the Lunatic Asylums Act, 1853.

[*29th July*, 1856.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Recorder to appoint two Justices to be Members of the Committee of Justices of the County for providing an Asylum.

I. Where a committee is or shall hereafter be appointed to provide an asylum for any county under the Lunatic Asylums Act, 1853, (*a*) the recorder of every borough now or hereafter annexed to such county for the purposes of the said Act (*b*) shall, at the general or quarter sessions next after such appointment as aforesaid, or where such committee has been already appointed, shall, at the general or quarter sessions next after the passing of this Act, appoint two justices of such borough to be members of such committee. (*b*)

(*a*) 16 & 17 Vict. c. 97, s. 3, *ante;* and see Eleventh Report of the Commissioners in Lunacy, 31st March, 1857, p. 8.

(*b*) 16 & 17 Vict. c. 97, s. 9, *ante;* and 18 & 19 Vict. c. 105, s. 7, *ante.* See also 16 & 17 Vict. c. 97, s. 10, *ante.*

25 & 26 VICT. C. 111.

An Act to amend the Law relating to Lunatics.

[*7th August*, 1862.

WHEREAS it is expedient to amend the law relating to lunatics, other than those found lunatics by inquisition, (*a*) or lunatics convicted of crime, (*b*) or acquitted on the ground of insanity: (*b*) be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say),

PRELIMINARY.

Interpretation of Terms.

I. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say,

"Lunacy Act, chapter one hundred," shall mean an Act passed in the session holden in the eighth and ninth years of the reign of Her present Majesty, chapter one hundred, and intituled "An Act for the Regulation of the Care and Treatment of Lunatics:" (*c*)

"Lunacy Act, chapter ninety-six," shall mean an Act passed in the session holden in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-six, intituled "An Act to amend an Act passed in the ninth year of Her Majesty, for the Regulation of the Care and Treatment of Lunatics:" (*d*)

"Lunacy Act, chapter ninety-seven," shall mean an Act

(*a*) See "Statutes relating to Private Lunatics," *ante*.
(*b*) See "Statutes relating to Criminal Lunatics," *post*.
(*c*) 8 & 9 Vict. c. 100, *ante*.
(*d*) 16 & 17 Vict. c. 96, *ante*.

passed in the session holden in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the Laws for the Provision and Regulation of Lunatic Asylums for Counties and Boroughs, and for the Maintenance and Care of Pauper Lunatics, in England:" (*e*)

"The Lunacy Acts" shall include the three Acts above mentioned and this Act:

"Asylum" shall have the same meaning as it has in the Lunacy Act, chapter ninety-seven: (*f*)

"Registered hospital" shall mean any hospital registered for the reception of lunatics. (*g*)

Construction of Act.

II. This Act shall be construed as one Act with the Lunacy Acts, chapters one hundred, (*h*) ninety-six, (*i*) and ninety-seven, (*j*) and words defined by the said Acts or any of them shall have the same meaning in this Act. (*k*)

Short Title.

III. This Act may be cited for all purposes as the "Lunacy Acts Amendment Act, 1862."

ESTABLISHMENT OF COUNTY ASYLUMS.

Plans, etc., of Visitors, when not approved by the Quarter Sessions, to be submitted to Secretary of State.

IV. Whereas by section thirty-one of the Lunacy Act, chapter ninety-seven, it is provided, "that the said visitors shall from time to time make their report to the general or quarter sessions of the county or borough, counties or

(*e*) 16 & 17 Vict. c. 97, *ante*.

(*f*) 16 & 17 Vict. c. 97, s. 132, *ante*. See also 8 & 9 Vict. c. 100, s. 114, *ante*.

(*g*) See also 8 & 9 Vict. c. 100, s. 114, *ante*.

(*h*) 8 & 9 Vict. c. 100, s. 114, *ante*.

(*i*) 16 & 17 Vict. c. 96, ss. 36, 37, *ante*.

(*j*) 16 & 17 Vict. c. 97, s. 132, *ante*.

(*k*) It will be observed that the Act of 1855, 18 & 19 Vict. c. 105, is not mentioned; but see s. 19 of that Act, *ante*. See also 19 & 20 Vict. c. 87, *ante*; as well as the subsequent Acts, 26 & 27 Vict. c. 110, *post*, and 28 & 29 Vict. c. 80, *post*.

boroughs, for which they (or such of them as have not been elected by subscribers, as therein mentioned) have been elected, of the several plans, estimates, and contracts which have been agreed upon, and of the sum or sums of money necessary to be raised and levied for defraying the purchase monies and expenses thereof on the county or borough, or, in the case of such union as therein mentioned, on each or every of the counties or boroughs; which plans, estimates, and contracts shall be subject to the approbation of the court or courts of general or quarter sessions of such county or counties, and of the justices of such borough or boroughs, before the same are completed or carried into execution" (save in the case therein mentioned). (*l*)

Where a plan, estimate, or contract agreed upon by any committee of visitors on behalf of a union of counties, or of a union of counties and boroughs, is disapproved of by one or more but not all of the courts of general or quarter sessions, or other bodies of justices whose approbation is required, in pursuance of the said enactment, each court of general or quarter sessions or body of justices disapproving of the same shall, within four months after such plan, estimate, or contract is reported to them, or where the same has been reported to them before the passing of this Act, then within one month after the holding of the first court of general or quarter sessions of the county or the first meeting of the justices of the borough after the passing of this Act, as the case may be, set forth their objections, with any observation they may think fit in relation thereto, in a report in writing, and forthwith transmit the same to one of Her Majesty's principal Secretaries of State, and the Secretary of State shall cause such inquiries to be made in relation to the matter as he may deem proper, and shall by writing under his hand direct the plan, estimate, or contract in question, with or without any alteration therein, or such other plan, estimate, or contract for the like purpose as he may think fit, to be proceeded with and carried into execution.

The decision of the Secretary of State, given in pursuance of this section, shall be final, and shall be acted upon without further report or approval.

(*l*) See Sixteenth Report of the Commissioners, 31st March, 1862, pp. 4, 5; and 16 & 17 Vict. c. 97, s. 31, *ante*.

Estimates to accompany Plans.

V. Together with every plan for building, or providing or enlarging or improving, any asylum for pauper lunatics, which is to be submitted to the Commissioners in Lunacy, under section forty-five of the said Lunacy Act, chapter ninety-seven, (*m*) an estimate of the cost and expense of carrying such plan into execution shall be also submitted to the said Commissioners.

Excess of Payment may be paid to a Building and Repair Fund.

VI. Where the committee of visitors enter into any agreement for the reception into the county asylum of pauper lunatics belonging to a county or borough which has not contributed to the erecting or providing such asylum, (*n*) and think fit under the Lunacy Act, chapter ninety-seven, section fifty-four, (*o*) to fix a greater weekly sum than is charged by them in respect of lunatics sent from or settled in some place, parish, or borough which has contributed to the building or providing such asylum, they may, if they think fit, pay over the excess created by the payment of such greater weekly sum to a building and repair fund, to be applied by them to the altering, repairing, or improving such asylum, and shall annually submit to the general or quarter sessions a detailed statement of the manner in which such fund has been expended.

Provision as to Contract for reception of Lunatics.

VII. Where any contract has been made by a committee of visitors of any county or borough under the Lunacy Act, chapter ninety-seven, section forty-two, for the reception into any asylum, hospital, or licenced house of the whole or a portion of the pauper lunatics of such county or borough, it shall be lawful for the justices of such county or borough, so long as such contract is subsisting, to defray out of the county or borough rate so much of the weekly charge agreed upon for each pauper lunatic received therein as may, in the opinion of such committee of visitors, represent the sum

(*m*) 16 & 17 Vict. c. 97, s. 45, *ante*.
(*n*) 16 & 17 Vict. c. 97, s. 7, *ante*, and s. 42, *ante*; also 18 & 19 Vict. c. 105, s. 10, *ante*.
(*o*) 16 & 17 Vict. c. 97, s. 54, *ante*. See also s. 7 of this Act, *post*.

due for the use of such asylum, hospital, or licenced house, not exceeding, however, one-fourth of the whole of such weekly charge, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic may be chargeable. (*p*)

Provision for Care of Chronic Lunatics.

VIII. It shall be lawful for the visitors of any asylum and the guardians of any parish or union within the district for which the asylum has been provided, if they shall see fit, to make arrangements, subject to the approval of the Commissioners and the President of the Poor Law Board, for the reception and care of a limited number of chronic lunatics in the workhouse of the parish or union, to be selected by the superintendent of the asylum, and certified by him to be fit and proper so to be removed. (*q*)

Lunatics in Asylum.

IX. The committee of visitors of any asylum may provide accommodation for the burial of pauper lunatics dying in the asylum (*r*) by acquiring a new burial ground, or by enlarging any existing burial ground; they may purchase for the purposes aforesaid any land, and may grant any land when purchased, or any land already belonging to them, to any person or body of persons, to be held on trust for a new burial ground or as part of an existing burial ground, or they may themselves hold such land on trust as a new burial ground or as part of an existing burial ground; they may also contribute any sums of money to any person or body of persons on condition of such person or body of persons agreeing to provide accommodation for the burial of such paupers as aforesaid in any burial ground; they may also take steps for the consecration of any new burial

(*p*) 16 & 17 Vict. c. 97, s. 42, *ante*, and s. 54, *ante;* and 18 & 19 Vict. c. 105, s. 10, *ante*. See also s. 6 of this Act, *ante;* and 16 & 17 Vict. c. 97, s. 102, *ante;* and 24 & 25 Vict. c. 55, s. 6, *post;* as well as 30 & 31 Vict. c. 106, s. 23, and 31 & 32 Vict. c. 122, s. 14.

(*q*) 26 & 27 Vict. c. 110, s. 2, *post*, and notes thereon. As to the various forms of chronic insanity, see Report of the Metropolitan Commissioners in Lunacy to the Lord Chancellor, 1844. pp. 102–113.

(*r*) 18 & 19 Vict. c. 105, ss. 11, 12, 13, *ante;* Introduction, *ante*, p. 318.

ground or enlarged burial ground, or any part thereof, and in case of a new burial ground they may provide for the appointment of a chaplain therein; they may enter into any agreements necessary for carrying into effect the powers conferred by this section, but the exercise of such powers shall be subject to the restrictions following:

Firstly, That not more than two statute acres shall in the case of any one asylum be purchased or granted as a new burial ground, or for an enlargement of an existing burial ground:

Secondly, That the sanction of the court of general or quarter sessions and of one of Her Majesty's principal Secretaries of State shall be given to any plan that may be proposed by any visitors for carrying into effect this section.

All expenses incurred by any visitors in providing accommodation for the burial of pauper lunatics, in pursuance of this Act, shall be deemed to be monies, costs, and expenses payable for the purposes of the Lunacy Act, chapter ninety-seven, and may be defrayed accordingly. (*s*)

8 & 9 *Vict. c.* 18, *incorporated.*

X. All the provisions of "The Lands Clauses Act, 1845," except the provisions of that Act "with respect to the purchase and taking of any lands otherwise than by agreement," "with respect to the recovery of forfeitures, penalties, and costs," "with respect to lands acquired by the promoters of the undertaking, under the provisions of the Lands Clauses Consolidation Act, 1845, or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof," "and with respect to the provision to be made for affording access to the special Act by all parties interested," shall be incorporated with this Act; (*t*) and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean any such committee of visitors as aforesaid. (*u*)

(*s*) 16 & 17 Vict. c. 97, s. 46, *ante.*
(*t*) See also 16 & 17 Vict. c. 97, s. 36, *ante.*
(*u*) See s. 9 of this Act, *ante.*

Taking on Lease Additional Lands for use of Asylum.

XI. It shall be lawful for any committee of visitors, with the sanction of the court of general or quarter sessions, to hire or take on lease, from year to year or for any term of years, at such rent, and upon such terms, and under such covenants as they think fit, any land or buildings, either for the employment or occupation of the patients in the asylum, or for the temporary accommodation of any pauper lunatics for whom the accommodation in the asylum may be inadequate.

The restrictions in section thirty-three of the Lunacy Act, chapter ninety-seven, as to the term for which the committee of visitors are thereby authorised to take a lease, or to rent land, shall not apply to land or buildings to be hired or taken under this provision. (*v*)

The land and buildings so to be hired or taken shall, while used for the purposes of this section, be deemed part of the asylum, and all existing provisions as to the asylum or part of the asylum shall be applicable thereto accordingly. (*w*)

Superannuation of Officers in Asylums.

XII. The power vested in the visitors of an asylum of granting an annuity by way of superannuation to any person that has been an officer or servant in such asylum for not less than twenty years, under section fifty-seven of the Lunacy Act, chapter ninety-seven, may be exercised by them when any such person has been an officer or servant for not less than fifteen years, in the same manner as if the time of such service had been twenty years; (*x*) and in calculating the amount of superannuation regard may be had, if the visitors think fit, to the value of the lodgings, rations, or other allowances enjoyed by the person superannuated: provided, that no annuity by way of superannuation granted by the visitors of any asylum under the provisions of this Act, (*y*) or of the Lunacy Act, chapter ninety-seven, (*z*) shall be chargeable on or payable out of the rates of any county (*y*) until such

(*v*) 16 & 17 Vict. c. 97, s. 33, *ante*.
(*w*) *Cambs Lunatic Asylum* v. *Fulbourn*, *ante*, p. 360.
(*x*) 16 & 17 Vict. c. 97, s. 57, *ante*, and note (*n*) thereon.
(*y*) See also s. 13 of this Act, *post*.
(*z*) 16 & 17 Vict. c. 97, s. 57, *ante*.

annuity shall have been confirmed by a resolution of the justices of such county in general or quarter sessions assembled.

Provision for Superannuation of Matrons.

XIII. Where the offices of superintendent and matron of any asylum are held by man and wife, and an order has been made under the Lunacy Act, chapter ninety-seven, (*a*) granting an annuity by way of superannuation to the superintendent, it shall be lawful for the committee of visitors of such asylum, if they think fit to do so, and if the matron has been an officer in the asylum for not less than twenty years, to grant to her such annuity by way of superannuation as they in their discretion think proportionate to her merits and time of service, although she may not have become incapable of executing her office from sickness, age, or infirmity; and every annuity granted in pursuance of this section shall be payable out of the rates lawfully applicable to the building or repairing of such asylum: (*b*) provided, firstly, that the annual amount by way of superannuation paid to any matron under this section shall not exceed two-thirds of the salary payable at the time of her retirement; secondly, that no such superannuation shall be granted unless notice of the meeting at which the same is to be granted, and of the intention to determine thereat the question of such superannuation, have been given in such manner and so long before the time appointed for such meeting as is provided in the said Act (*c*) with respect to notices of meetings of committees of visitors, nor unless three visitors concur in and sign the order granting the same; (*d*) thirdly, if any such matron as aforesaid at any time thereafter is appointed to any public office, or to any office under the Lunacy Act, in respect of which she receives a salary, the payment of the compensation awarded to her under this Act shall be suspended so long as she receives such salary, if the amount thereof is greater than the amount of compensation, or, if not, shall be diminished by the amount of such salary.

(*a*) 16 & 17 Vict. c. 97, s. 57, *ante*.
(*b*) See also s. 12, of this Act, *ante*.
(*c*) 16 & 17 Vict. c. 97, s. 24, *ante*.
(*d*) See also s. 12 of this Act, *ante*.

Licenced Houses.

Inspection by Commissioners before Licence granted by Justices.

XIV. Before the grant by the justices of a licence for the reception of lunatics to a house which has not been previously licenced for that purpose, the notice given by the applicant, and the plan and statements accompanying the same, or copies of such notice, plan, and statements respectively, (*e*) shall be transmitted by the applicant to the Commissioners, and the Commissioners shall inspect or cause to be inspected the house and land or appurtenances proposed to be included in the licence, and shall ascertain, with reference as well to the situation as to the structure, arrangements, and condition of the premises, whether the same are suitable for the reception of the patients proposed to be received therein, and the Commissioners shall transmit to the clerk of the peace for the county or borough a report in reference to such application; and no licence shall be granted by the justices of the county or borough, in pursuance of such application until the report of the Commissioners with reference thereto has been received by the said clerk of the peace, and taken into consideration by the justices in general or quarter or special sessions assembled.

Where a licence is granted by the justices of a county or borough in respect of a house not previously licenced, such licence shall, as nearly as conveniently may be, be according to the form in the schedule marked (A) to this Act, instead of in the form prescribed by the Lunacy Act, chapter one hundred. (*f*)

Notice of Alterations to be given to the Commissioners.

XV. Before the consent of any visitors is given to any addition or alteration being made in or about any licenced house, or the appurtenances, the notice of the proposed addition or alteration, and plan thereof, and accompanying description given to the clerk of the peace, or copies thereof respectively, shall be transmitted by him to the Commissioners, who shall, after making or causing to be made such inquiries or inspection (if any) as they may deem proper,

(*e*) 8 & 9 Vict. c. 100, s. 24, *ante*; 16 & 17 Vict. c. 96, s. 1, *ante*.
(*f*) 8 & 9 Vict. c. 100, s. 30, *ante*, and schedule A, *ante*.

transmit to the said clerk of the peace a report stating their approval or disapproval thereof; and the visitors shall not consent to such addition or alteration until they have received and considered such report. (*g*)

Provision as to Non-resident Proprietors.

XVI. Whereas by the second section of the Lunacy Act, chapter ninety-six, (*h*) it is enacted, "that no person having, after the passing of the Lunacy Act, chapter one hundred, received for the first time a licence for the reception of lunatics, or thereafter receiving for the first time such licence, shall receive a licence unless he resides on the premises licenced, and no two or more persons having, after the passing of the last-mentioned Act, received for the first time a joint licence for the reception of lunatics, or thereafter receiving for the first time such joint licence, shall receive such licence unless they or one of them should reside on the premises licenced:" and whereas it is expedient that in the licenced houses to which the said section does not apply, by reason of the proprietor or proprietors thereof having first received a licence prior to the date mentioned in the said section, the following provision shall be made: be it enacted,

That in all cases of licenced houses, where the proprietor or proprietors thereof have first received their licence or licences before the date of the passing of the Lunacy Act, chapter one hundred, (*i*) the physician, surgeon, or apothecary (*j*) required by Act of Parliament to reside in or visit such house shall be approved, in the case of a house licenced by the Commissioners, by the Commissioners, and in the case of a house licenced by justices, by the justices; and any proprietor of a licenced house to which this section applies who permits any physician, surgeon, or apothecary (*j*) who has not been approved by the Commissioners, or by the justices, as the case may be, to reside in or visit at such house in such capacity as aforesaid for a period exceeding one calendar month, shall incur a penalty not exceeding five pounds for every day beyond such month during which such

(*g*) 8 & 9 Vict. c. 100, s. 26, *ante*.

(*h*) 16 & 17 Vict. c. 96, s. 2, *ante*. See also 8 & 9 Vict. c. 100, s. 24, *ante;* and Introduction, *ante*, pp. 46, 47.

(*i*) 4th August, 1845.

(*j*) 16 & 17 Vict. c. 96, s. 36, *ante;* 25 & 26 Vict. c. 111, s. 47, *post*.

physician, surgeon, or apothecary (*k*) so resides or visits ; (*l*) the above-mentioned period of one month shall be reckoned in the case of a physician, surgeon, or apothecary (*k*) so resident or visiting at the time of the passing of this Act from the date of the passing thereof, and in the case of any fresh appointment of any such physician, surgeon, or apothecary (*k*) as aforesaid from the date of such appointment. (*l*)

Penalty on infringing Terms of Licence.

XVII. If any person empowered by licence issued under the Lunacy Act, chapter one hundred, to employ his house and premises for the reception of lunatics receives into his house any patients beyond the number specified in his licence, or fails to comply with the regulations of his licence in respect of the sex of the patients to be received, or the class of patients, whether private or not, to be received, he shall, in respect of each patient received in contravention of his licence, incur a penalty not exceeding fifty pounds. (*l*)

Extension of Powers to take Boarders in Houses.

XVIII. It shall be lawful for the proprietor or superintendent of any licenced house, with the previous assent in writing of two or more of the Commissioners, or in the case of a house licenced by justices of two or more of the visitors, to entertain and keep in such house as a boarder for such time as may be specified in the assent any person who may have been within five years immediately preceding the giving of such assent a patient in any asylum, hospital, or licenced house, or under care as a single patient. (*m*)

ADMISSION AND VISITATION OF PATIENTS.

Provision for sending Pauper Lunatics to Asylums.

XIX. Whereas by the sixty-seventh section of the Lunacy Act, chapter ninety-seven, it is amongst other things enacted as follows : "that every relieving officer of any parish within a union or under a board of guardians, and every overseer

(*k*) See note (*j*) on preceding page.

(*l*) 8 & 9 Vict. c. 100, s. 106, *ante;* 25 & 26 Vict. c. 111, s. 2, *ante.* See also 18 & 19 Vict. c. 105, s. 19, *ante.*

(*m*) 16 & 17 Vict. c. 96, s. 4, *ante;* and s. 6, *ante;* 18 & 19 Vict. c. 105, s. 16, *ante.*

of a parish of which there is no relieving officer, who shall have knowledge either by such notice or otherwise that any pauper resident in such parish is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall within three days after obtaining such knowledge give notice thereof to some justice of the county or borough within which such parish is situate:" now be it enacted, that the said section shall be construed as if the words "and a proper person to be sent to an asylum" had been omitted in the said recited enactment. (*n*)

Lunatics Proper to be sent to Asylums.

XX. No person shall be detained in any workhouse, being a lunatic or alleged lunatic, beyond the period of fourteen days, (*o*) unless in the opinion, given in writing, (*p*) of the medical officer (*q*) of the union or parish to which the workhouse belongs such person is a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse is sufficient for his reception, and any person detained in a workhouse in contravention of this section shall be deemed to be a proper person to be sent to an asylum within the meaning of section sixty-seven of the Lunacy Act, chapter ninety-seven; (*r*) and in the event of any person being detained in a workhouse in contravention of this section, the

(*n*) 16 & 17 Vict. c. 97, s. 67, *ante*. It will be observed that "the said recited enactment" does not embrace the whole of s. 67, but merely that portion of it which is quoted above; and consequently it is only in that clause which requires the relieving officer (or overseer) to give notice to a justice, that the words "and a proper person to be sent to an asylum," are to be considered as omitted. In all the other parts of s. 67 they are retained. The result is, that the relieving officer (or overseer) is to give such notice in every case of a resident pauper deemed to be a lunatic, without entering into the question of the propriety of his being sent to an asylum. That question is to be considered at a later stage, when the case is before the justice (or officiating clergyman). Moreover, the words "and a proper person to be sent to an asylum" still remain in the clause relating to the notice which is to be given by the medical officer. As to removal to parish of settlement, or country of birth, see Introduction, *ante*, pp. 311, 312.

(*o*) 4 & 5 Wm. iv. c. 76, s. 45, *post*.

(*p*) See the Local Government Board's Circulars of 10th August, 1872, and 21st April, 1873, Appendix, *post*.

(*q*) This language is not very clear or precise; but it must apparently be understood as referring to the medical officer of the workhouse,

(*r*) 16 & 17 Vict. c. 97, s. 67, *ante*.

medical officer (*s*) shall for all the purposes of the Lunacy Act, chapter ninety-seven, be deemed to have knowledge that a pauper resident within his district is a lunatic, and a proper person to be sent to an asylum, and it shall be his duty to act accordingly, and further to sign such certificate as is contained in schedule (F) to the said Act, No. 3, with a view to more certainly securing the reception into an asylum of such pauper lunatic as aforesaid. (*t*)

Amendment of Form of List as respects Pauper Lunatics in Workhouses.

XXI. The list of lunatic paupers required by section sixty-six of the Lunacy Act, chapter ninety-seven, (*u*) to be made out by the medical officer, shall be in the form in the schedule marked (B) hereto, and not in the form required by the said section, (*u*) and shall, as respects such of the lunatics therein mentioned as may be in any workhouse, state whether, in the opinion of the medical officer, (*v*) the workhouse is or not sufficient for the accommodation of the lunatics detained therein, and whether or not the lunatics detained therein are proper persons to be kept in a workhouse.

Order for Reception and Medical Visitation of Persons found Lunatic by Inquisition.

XXII. When a person has been found lunatic by inquisition an order, signed by the committee appointed by the Lord Chancellor, and having annexed thereto an office copy of the order appointing such committee, shall be a sufficient authority for the reception of such person into any asylum, (*w*) hospital, licenced house, or other house, without any

(*s*) See note (*q*) on preceding page.

(*t*) 16 & 17 Vict. c. 97, s. 67, *ante*, and s. 70, *ante*; and also the note to 25 & 26 Vict. c. 111, s. 19, *ante*. See further, s. 31 of this Act, *post*.

(*u*) 16 & 17 Vict. c. 97, s. 66, *ante*, and schedule E, *ante*.

(*v*) This will be the medical officer of the workhouse, whether he be or be not also the medical officer of the district in which the workhouse is locally situated. See note (*c*) to schedule B, *post*.

(*w*) It will be seen that in the latter part of this section, reference is made to 8 & 9 Vict. c. 100, s. 90, and to 16 & 17 Vict. c. 96, ss. 4 and 8; but that no mention is made of 16 & 17 Vict. c. 97, although the section contemplates the reception of lunatics of the class alluded to into asylums. See 16 & 17 Vict. c. 97, s. 43, *ante*, s. 74, *ante*, and schedule F, Nos. 2 and 3, *ante*.

further order or any such medical certificates as are required by section ninety of the Lunacy Act, chapter one hundred, (*x*) and sections four and eight of the Lunacy Act, chapter ninety-six, (*y*) and the provisions of the section ninety of the Lunacy Act, chapter one hundred, (*z*) as to the visitation of every single patient once in every two weeks by a physician, surgeon, or apothecary, shall not apply to any person found lunatic by inquisition as aforesaid.

Persons signing Orders for Admission to have seen Patient within one Month.

XXIII. No order for the reception of a private patient into any asylum or registered hospital, licenced or other house, made in pursuance of the Lunacy Acts, chapter ninety-six (*a*) and ninety-seven, (*b*) or either of them, shall authorise the reception of such patient after the expiration of one calendar month from its date, nor unless the person subscribing such order has himself seen the patient within one month prior to its date, nor unless a statement of the time and place when such person last saw the patient is added to such order.

Certain Persons prohibited from signing Orders for Admission.

XXIV. The following persons shall be prohibited from signing any certificate or order for the reception of any private patient into any licenced or other house: (*c*)

First. Any person receiving any per-centage on or otherwise interested in the payments to be made by or on account of any patient received into a licenced or other house:

Second. Any medical attendant as defined by the Lunacy Act, chapter one hundred.

Relative of Pauper to be named in Order of Admission.

XXV. Where an order is made, in pursuance of the

(*x*) 8 & 9 Vict. c. 100, s. 90, *ante;* and see Introduction, *ante*, p. 32.
(*y*) 16 & 17 Vict. c. 96, s. 4, *ante;* s. 8, *ante.*
(*z*) 8 & 9 Vict. c. 100, s. 90, *ante;* and see Introduction, *ante*, pp. 31–34.
(*a*) 16 & 17 Vict. c. 96, ss. 4, 8, *ante;* schedule A to that Act, *ante.*
(*b*) 16 & 17 Vict. c. 97, s. 43, *ante;* s. 74, *ante;* schedule F, No. 2, *ante.*
(*c*) 16 & 17 Vict. c. 96, schedule A, *ante.*

Lunacy Acts or any of them, for the reception of any private or pauper lunatic (*e*) into any asylum, (*f*) registered hospital, (*g*) or licenced house, (*g*) there shall be inserted in every such order, (*h*) wherever it be possible, the name and address of one or more of the relations of the lunatic; and in the event of his death it shall be the duty of the clerk of such asylum, the superintendent of such hospital, and the proprietor or superintendent of such licenced house, to send by post notice of his death in a prepaid letter addressed to such relation or one of such relations.

Same Order and Certificates to justify detention as Pauper of Private Patient.

XXVI. The order and certificate required by law for the detention of a patient as a pauper shall extend to authorise his detention, although it may afterwards appear that he is entitled to be classified as a private patient; and the order and certificates required by law for the detention of a patient as a private patient shall authorise his detention, although it may afterwards appear that he ought to be classified as a pauper patient. (*i*)

Provision as to defective Certificates.

XXVII. Where any medical certificate upon which a patient has been received into any asylum, (*j*) registered

(*e*) It will be seen that the enactment applies to private as well as pauper lunatics.

(*f*) 16 & 17 Vict. c. 97, schedule F, *ante*.

(*g*) 16 & 17 Vict. c. 96, schedules A and B, *ante*.

(*h*) There seems to be no convenient place in the "order" itself; but the direction will doubtless be sufficiently complied with if the name and address be inserted in the "statement" appended to the order.

(*i*) 16 & 17 Vict. c. 96, schedules A and B, *ante;* 16 & 17 Vict. c. 97, schedule F, *ante*. The above enactment (s. 26) does not specify any place of detention; but it will apparently apply to any registered hospitals or licenced houses in which pauper patients may be received, as well as to any county or borough asylums in which private patients may be received. The Commissioners in Lunacy have stated that "notice of any transfer under this section should be given to the Commissioners" (Seventeenth Report, 1863, Appendix K. pp. 169, 170).

(*j*) 16 & 17 Vict. c. 97, s. 87, *ante*. It will be observed that the power of discharge can only be exercised where a certificate is incorrect or defective; and that it does not arise upon any incorrectness or defect in the order for admission; which nevertheless may be amended. See Seventeenth Report of the Commissioners in Lunacy, 1863, p. 39.

hospital, (*k*) licenced or other house, (*k*) or either of such certificates, is deemed by the Commissioners incorrect or defective, and the same are or is not duly amended to their satisfaction within fourteen days after the reception by the superintendent or proprietor of such asylum, (*l*) registered hospital, (*k*) or licenced or other house (*k*) of a direction or writing from the Commissioners requiring amendment of the same, the Commissioners or any two of them may, if they see fit, make an order for the patient's discharge.

Transmission of Documents to Commissioners on Admission of Patient.

XXVIII. The documents required by the Lunacy Act, chapter one hundred, sections fifty-two (*m*) and ninety, (*n*) and the Lunacy Act, chapter ninety-seven, section eighty-nine, (*o*) to be sent to the Commissioners in Lunacy, after two clear days, and before the expiration of seven clear days from the day on which any private (*o*) patient has been received into any licenced house, registered hospital, or asylum, shall, with the exception of the statement now required to be subjoined to the notice of admission into any asylum, hospital, or licenced house, be transmitted to the said Commissioners within one clear day from the day on which any patient has been received into any such house, hospital, or asylum as aforesaid, and the said sections shall, so far as relates to the said documents, other than the said statement, be construed as if the words "one clear day" were substituted therein for the words "after two clear days, and before the expiration of seven clear days;" nevertheless the said excepted statement shall be transmitted as heretofore, save that it shall be separate from the said notice, and shall refer to the order of admission by the date thereof,

(*k*) 16 & 17 Vict. c. 96, s. 11, *ante*. See also the preceding note.

(*l*) See note (*j*) in preceding page.

(*m*) 8 & 9 Vict. c. 100, s. 52, *ante*; and 16 & 17 Vict. c. 96, s. 24, *ante*; and schedule C, *ante*.

(*n*) 8 & 9 Vict. c. 100, s. 90, *ante*. See also 25 & 26 Vict. c. 111, s. 41, *post*.

(*o*) 16 & 17 Vict. c. 97, s. 89, *ante*; and schedule F, No. 4, *ante*. It will be observed that the above enactment (s. 28) is confined to "private patients;" and that the directions in 16 & 17 Vict. c. 97, s. 89, with regard to pauper patients, remain unaltered.

instead of referring to it as the above notice, and the words referring to the said statement as being subjoined shall be omitted in the said notice.

Visits by Commissioners.

XXIX. Every licenced house may be visited at any time, and if situate within their immediate jurisdiction, (*p*) shall be visited twice at least in every year by any one or more of the Commissioners, in addition to the visits now required to be made by two at least of the Commissioners; (*q*) and if not within the immediate jurisdiction of the Commissioners, may be visited at any time, and shall be visited twice at least in every year by one or more of the visitors, in addition to the visits now required to be made by two at least of the visitors. (*r*)

Every Commissioner visiting alone shall have the same powers as two Commissioners would have under section sixty-one of the Lunacy Act, chapter one hundred; and all the provisions of the said Act contained in section sixty-three, sixty-four, sixty-five, sixty-six, and sixty-seven (*s*) shall apply to a Commissioner or visitor visiting alone, as the case may be, in the same manner as they would apply under the said Act to two or more Commissioners or two or more visitors visiting together.

Single Commissioner to visit Asylums and Gaols.

XXX. Any one or more of the Commissioners may at any time visit every asylum and hospital for lunatics, and every gaol in which there may be, or alleged to be, any lunatic, in addition to the visits now required or empowered to be made by two at least of the Commissioners, and every Commissioner so visiting alone shall have the same powers as two or more Commissioners would perform and have, in the case of an asylum or gaol, in pursuance of the one hundred and tenth section of the Lunacy Act, chapter one hundred, (*t*)

(*p*) 8 & 9 Vict. c. 100, s. 14, *ante;* Introduction, *ante*, pp. 44, 45.
(*q*) 8 & 9 Vict. c. 100, s. 61, *ante.*
(*r*) 8 & 9 Vict. c. 100, s. 62, *ante.*
(*s*) 8 & 9 Vict. c. 100, s. 62, *ante;* s. 63, *ante;* s. 64, *ante;* s. 65, *ante;* s. 66, *ante;* s. 67, *ante.*
(*t*) 8 & 9 Vict. c. 100, s. 110, *ante.* See also 16 & 17 Vict. c. 97, s. 91, *ante;* and the note (*d*) thereon.

and in the case of a hospital in pursuance of section sixty-one of the Lunacy Act, chapter one hundred. (*u*)

Power to remove Lunatic from Workhouse to Asylum.

XXXI. Where upon the visitation of any workhouse by any two or more of the Commissioners in Lunacy it appears to them that any lunatic or alleged lunatic therein is not a proper person to be kept in a workhouse, they may by an order under their hands direct such lunatic to be received into an asylum, and any order (*v*) so made shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order (*v*) made by a justice for the reception of a lunatic into an asylum under the sixty-seventh section of the Lunacy Act, chapter ninety-seven: (*w*) provided always, that it shall be lawful for the guardians of the union or parish to which any workhouse belongs to appeal against such order at any time within one calendar month from the making thereof to Her Majesty's principal Secretary of State for the Home Department, who shall thereupon exercise the power given to him by section one hundred and thirteen of the Lunacy Act, chapter one hundred, (*x*) save that he shall not appoint thereunder the Commissioners who made the order appealed against, or either of them; and the order in the matter of the Secretary of State, made upon the report of the special visitation, shall be binding on all parties concerned.

Removal of single Pauper Patients to Asylums.

XXXII. Any two or more of the Commissioners in Lunacy may visit any pauper lunatic or alleged lunatic not in an asylum, hospital, licenced house, or workhouse, and may if they think fit so to do, call to their assistance a physician, surgeon, or apothecary, and examine such pauper; and if such physician, surgeon, or apothecary sign a certificate with respect to such pauper, according to the form in schedule (F) No. 3, annexed to the Lunacy Act, chapter ninety-seven, (*y*)

(*u*) 8 & 9 Vict. c. 100, s. 61, *ante*.
(*v*) No medical certificate appears to be required.
(*w*) As to a case in which this power has been exercised, see Seventeenth Report of the Commissioners, 1863, p. 25.
(*x*) 8 & 9 Vict. c. 100, s. 113, *ante*.
(*y*) 16 & 17 Vict. c. 97, schedule (F) No. 3, *ante*.

and the Commissioners are satisfied that such pauper is a lunatic, and a proper person to be taken charge of and detained under care and treatment, they may, by an order under their hands, direct such lunatic or alleged lunatic to be received into an asylum, and any order so made shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order made by a justice for the reception of a lunatic into an asylum under the sixty-seventh section of the Lunacy Act, chapter ninety-seven. (*z*)

Effect of Order for Removal.

XXXIII. The order made by any two or more of the Commissioners in Lunacy in pursuance of this Act may authorise the admission of a lunatic not only into any asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital registered or house licenced for the reception of lunatics, under the same circumstances and subject to the same conditions under which an order of the justice or justices may authorise such admission in pursuance of section seventy-two of the Lunacy Act, chapter ninety-seven. (*a*)

Statement of Condition of Pauper Lunatics to be transmitted to Guardians.

XXXIV. The superintendent of every asylum shall, once at least in each half-year, transmit to the guardians of every union, and of every parish under a board of guardians, and the overseers of every parish not in a union nor under a board of guardians, a statement of the condition of every pauper lunatic chargeable to such union or parish. (*b*)

Amendment of section 64 of 8 & 9 Vict. c. 100.

XXXV. The inquiries authorised to be made under sec-

(*z*) 16 & 17 Vict. c. 97, s. 67, *ante*.
(*a*) 16 & 17 Vict. c. 97, s. 72, *ante*; see also s. 78, *ante*.
(*b*) See also 16 & 17 Vict. c. 97, ss. 63, 64, 65, *ante*; and Introduction, *ante*, p. 301; and the letter of the Commissioners in Lunacy, 20th December, 1864, and the Poor Law Board's Circular, 31st January, 1865, Appendix, *post*.

tion sixty-four of the Lunacy Act, chapter one hundred, (*c*) or under section ninety-two of the same Act, (*d*) and the provisions amending the same, may include inquiries as to the monies paid to the superintendent or proprietor on account of any lunatic under the care of such superintendent or proprietor.

Copies of Entries of Commissioners and Visitors. (*e*)

XXXVI. The proprietor (*f*) of every licenced house within the jurisdiction of visitors appointed by justices shall, within three days after a visit by the Visiting Commissioners or Commissioner, transmit a true and perfect copy of the entries made by them or him in the Visitors' Book, the Patients' Book, and the Medical Visitation Book, respectively, distinguishing the entries in the several books, to the clerk of the visitors as well as to the Commissioners, (*g*) and the copies so transmitted to the clerk of the visitors of all such entries in the Visitors' Book relating to any such licenced house, and made since the grant or last renewal of the licence thereof, shall be laid before the justices on taking into consideration the renewal of the licence to the house to which such entries relate; and every such proprietor as aforesaid who shall omit to transmit as hereinbefore mentioned a true and perfect copy of every or any such entry as aforesaid shall for every such omission forfeit a sum not exceeding ten pounds. (*h*)

Visiting Committee to enter Observations in a Book respecting Dietary, Accommodation, etc., of Lunatics in Workhouses.

XXXVII. The visiting committee (*i*) of every union, (*j*)

(*c*) 8 & 9 Vict. c. 100, s. 64, *ante*.
(*d*) 8 & 9 Vict. c. 100, s. 92, *ante*.
(*e*) The enactment refers to the entries of the Commissioners only.
(*f*) It will be observed that the superintendent (see 8 & 9 Vict. c. 100, s. 24, and note (*y*) thereon, *ante*) is not mentioned. For the definition of "proprietor," see 8 & 9 Vict. c. 100, s. 114, *ante*.
(*g*) 8 & 9 Vict. c. 100, s. 67, *ante*; 25 & 26 Vict. c. 111, s. 29, *ante*.
(*h*) 8 & 9 Vict. c. 100, s. 106, *ante*, and s. 108, *ante*; 25 & 26 Vict. c. 111, s. 2, *ante*.
(*i*) As to the appointment, and duties, of the visiting committee, see Articles 148 and 149 of the General Consolidated Order of the Poor Law Commissioners (Glen's Poor Law Board Orders, seventh edition, 1871).
(*j*) See 16 & 17 Vict. c. 97, s. 132, *ante*.

and of every parish under a board of guardians, and the overseers of every parish not in a union or under a board of guardians, shall once at the least in each quarter of a year enter in a book to be provided and kept by the master of the workhouse such observations as they may think fit to make respecting the dietary, accommodation, and treatment (*k*) of the lunatics or alleged lunatics for the time being in the workhouse of their union (*l*) or parish, and the book containing the observations made in pursuance of this section by the visiting guardians or overseers shall be laid by the master before the Commissioner or Commissioners on his or their next visit.

Miscellaneous Clauses.

Patients may be permitted to be absent on Trial from Hospitals and Private Houses. (*m*)

XXXVIII. Section eighty-six of the Lunacy Act, chapter one hundred, and section seventeen of the Act eighteenth and nineteenth Victoria, chapter one hundred and five, (*n*) shall extend to authorise the proprietor or superintendent of any licenced house or hospital, with such consent, and to be given on such approval as thereby required, to permit any patient to be absent from such hospital or house upon trial for such period as may be thought fit:

Two of the Commissioners, as regards any hospital or any licenced house, and two of the committee of governors of any hospital, and two of the visitors of any licenced house, as regards any licenced house within the jurisdiction of vi-

(*k*) The Commissioners in Lunacy have expressed the opinion that in framing the above section the Legislature were desirous of securing a periodical and full investigation by the guardians of the mental and bodily condition of all the pauper lunatics detained by them in the workhouse; and that therefore the word "treatment" should be considered not only as having reference to the medical care of the patients, but as affecting their moral and general treatment also, and would include inquiries as to the provision made for their exercise, occupation, and amusement, as to the state of their persons, clothing, and bedding, and as to the conduct and efficiency of the attendants, whether paid or otherwise, who may be appointed to take care of them. (See Glen's Poor Law Board Orders, seventh edition, 1871, p. 112).

(*l*) See note (*j*) on preceding page.

(*m*) *i.e.* licenced houses.

(*n*) 8 & 9 Vict. c. 100, s. 86, *ante*; 18 & 19 Vict. c. 105, s. 17, *ante*.

sitors, may of their own authority permit any pauper patient therein to be absent from such hospital or house upon trial for such period as they may think fit, and may make or order to be made an allowance to such pauper not exceeding what would be the charge for him in such hospital or house, which allowance shall be charged for him and be payable as if he were actually in such hospital or house, but shall be paid over to him, or for his benefit, as the said Commissioners or visitors may direct:

In case any person so allowed to be absent on trial for any period do not return at the expiration thereof, and a medical certificate as to his state of mind certifying that his detention as a lunatic is no longer necessary be not sent to the proprietor or superintendent of such licenced house or hospital, he may at any time within fourteen days after the expiration of the said period be retaken, as in the case of an escape. (*o*)

Penalty on Officer conniving at the Escape of Lunatics.

XXXIX. If any officer or servant in any hospital or licenced house through wilful neglect or connivance permits any patient to escape from such hospital or licenced house, or secretes or abets or connives at the escape of any patient from such hospital or licenced house, (*p*) he shall for every such offence incur a penalty not exceeding twenty pounds. (*q*)

Correspondence of Private Patients.

XL. Every letter written by a private patient (*r*) in an asylum, hospital, or licenced house, or by any single patient, (*s*) and addressed to the Commissioners in Lunacy or committee, (*t*) or in the case of houses within the jurisdic-

(*o*) 8 & 9 Vict. c. 100, s. 99, *ante*. It seems that such recapture should be reported to the Commissioners, and visitors, under 8 & 9 Vict. c. 100, s. 53, *ante;* though the point is not free from doubt.

(*p*) 8 & 9 Vict. c. 100, s. 53, *ante;* s. 87, *ante;* s. 99, *ante*.

(*q*) 8 & 9 Vict. c. 100, s. 106, *ante;* 25 & 26 Vict. c. 111, s. 2, *ante*.

(*r*) 8 & 9 Vict. c. 100, s. 114, *ante*.

(*s*) 16 & 17 Vict. c. 96, s. 36, *ante*.

(*t*) The word "committee," as here used, is ambiguous; for our written language does not distinguish between the two senses of that word. It may mean a commit*tee* (either of person, or of estate) appointed by the Lord Chancellor (Introduction, chap. I., *ante*); or it may refer to a body of persons appointed as a com*mit*tee for any pur-

tion of visitors to the visitors or any of them, shall, unless special regulations to the contrary have been given by such Commissioners or visitors, be forwarded unopened.

Every letter written by a private patient (*u*) in any asylum, hospital, or licenced house, or by any single patient, (*v*) and addressed to any person other than the Commissioners or committee (*w*) or visitors or one of them, shall be forwarded to the person to whom it is addressed, (*x*) unless the superintendent in the case of an asylum or hospital, the proprietor in the case of a licenced house, and the person having the charge of a single patient (*v*) in the case of a single patient, (*v*) prohibits the forwarding of such letter, by endorsement to that effect under his hand on the letter, in which case he shall lay all letters so endorsed before the Visiting Commissioners, committee, (*w*) or visitors, as the case may be, on their next visit.

Any superintendent, proprietor, or person in charge of a single patient (*v*) failing to comply with the provisions of this section as to laying any letter before the Commis-

pose. In the present instance, the former appears to be the more obvious meaning; but the Commissioners in Lunacy have read the clause differently. In a Memorandum of Instructions (Seventeenth Report, 1863, Appendix K, p. 169), they have stated as follows:—

"Section 40. Without special directions to the contrary, letters addressed to the Commissioners, *Committees of Visitors*, *Committees of a Hospital*, and the Visitors of licenced houses, must be forwarded unopened.

"Other letters must also be forwarded unless, by an endorsement thereon, the superintendent or other person having charge of patients should prohibit their transmission.

"Letters so endorsed to be laid before Commissioners, *Committees*, or Visitors, at next visit."

The enactment, however, does not specify either "committees of visitors," or "committees of a hospital;" and it uses the word in the singular number, although the other terms employed (Commissioners, or committee, or visitors) are in the plural; but even if it may be considered to refer to such "committees," it will likewise apply to any letter written by a private or single patient to the committee appointed by the Lord Chancellor, where such patient is confined under an order of such committee (see s. 22 of this Act, *ante*). See also the Circular issued by the Commissioners on March 1, 1875 (Appendix, *post*), and their Thirtieth Report, 1876, pp. 78, 79.

(*u*) 8 & 9 Vict. c. 100, s. 114, *ante*.

(*v*) 16 & 17 Vict. c. 96, s. 36, *ante*.

(*w*) See note (*t*) on preceding page.

(*x*) As to visits of friends, see 8 & 9 Vict. c. 100, ss. 84, 85, *ante*.

sioners or committee (*y*) or visitors that is not forwarded to the address of the person to whom it is directed, or being privy to the detention by any other person of any letter detained in contravention of this section, shall incur a penalty not exceeding twenty pounds in respect of each offence; (*z*) and any person detaining any letter in contravention of this section shall incur in respect of each letter so detained a penalty not exceeding twenty pounds. (*z*)

Statement as to Condition of Single Patients.

XLI. Every person having the care or charge of a single patient (*a*) shall in addition to the notice required to be given by the ninetieth section of the Lunacy Act, chapter one hundred, (*b*) before the expiration of seven clear days from the day on which he has taken the patient under his care or charge, transmit to the Commissioners a statement of the condition of the patient, according to the form in schedule (F) annexed to the said last-mentioned Act, such statement to be signed by the physician, surgeon, or apothecary (*c*) visiting the patient in pursuance of the ninetieth section of the Lunacy Act, chapter one hundred. (*b*)

If any person having the care or charge of a single patient (*a*) fails to transmit such statement as aforesaid within such time as is required by this section he shall be guilty of a misdemeanor. (*d*)

Commissioners empowered to prescribe Forms, etc., of Medical Visitation Book.

XLII. In the case of single patients (*a*) the Commissioners may from time to time make regulations as to the form of and the particulars to be entered in the "Medical Visitation Book," required to be kept by the ninetieth section of the

(*y*) See note (*t*) on p. 502.

(*z*) 8 & 9 Vict. c. 100, s. 106, *ante;* 25 & 26 Vict. c. 111, s. 2, *ante.*

(*a*) 16 & 17 Vict. c. 96, s. 36, *ante.*

(*b*) 8 & 9 Vict. c. 100, s. 90, *ante.* See also 25 & 26 Vict. c. 111, s. 28, *ante.*

(*c*) 16 & 17 Vict. c. 96, s. 36, *ante;* 25 & 26 Vict. c. 111, s. 47, *post.*

(*d*) 8 & 9 Vict. c. 100, s, 106, *ante*, and s. 108, *ante;* 25 & 26 Vict. c. 111, s. 2, *ante.*

Lunacy Act, chapter one hundred, (*e*) and if the person having the care or charge of a single patient (*f*) fails to comply with the regulations so made he shall in respect of each offence incur a penalty not exceeding five pounds. (*g*)

Discharge of a private Patient.

XLIII. If there be no person capable or qualified, under section seventy-two (*h*) or section seventy-three (*h*) of the said Lunacy Act, chapter one hundred, to direct the discharge or removal of any such patient as therein mentioned from any registered hospital or licenced house, the Commissioners may order the discharge or removal of such patient, as they may think fit. (*i*)

Report to Coroner of Death of Single Patient. (*j*)

XLIV. The superintendent of every asylum, (*k*) and every person having the care or charge of a single patient, (*f*) shall, in the event of the death of any patient, transmit to the coroner of the county or borough the same statement as is required by law to be transmitted in the case of the death of any patient in any hospital or licenced house, (*l*) and if such coroner, after receiving such statement, thinks that any reasonable suspicion attends the cause and circumstances of the death of such patient, he shall summon a jury to inquire into the circumstances of such death. (*m*)

(*e*) 8 & 9 Vict. c. 100, s. 90, *ante*. As to the form of this book, see Introduction, *ante*, p. 35.

(*f*) 16 & 17 Vict. c. 96, s. 36, *ante*.

(*g*) 8 & 9 Vict. c. 100, s. 106, *ante*; 25 & 26 Vict. c. 111, s. 2.

(*h*) 8 & 9 Vict. c. 100, s. 72, 73, *ante*.

(*i*) This enactment does not apply to single patients in unlicenced houses. See 16 & 17 Vict. c. 96, s. 17, *ante*.

(*j*) This marginal note is misleading; as the enactment applies not only to single patients in unlicenced houses, but to any patient dying in an asylum (see Introduction, *ante*, p. 318. See also Nineteenth Report of the Commissioners in Lunacy, 1865, p. 19).

(*k*) See 16 & 17 Vict. c. 97, s. 92; and notes thereon, *ante*.

(*l*) 16 & 17 Vict. c. 96, s. 19, *ante*.

(*m*) 37 & 38 Vict. c. 88, provides as follows:—s. 16. "Where an inquest is held on any dead body, the jury shall inquire of the particulars required to be registered concerning the death, and the coroner shall send to the registrar, within five days after the finding of the jury is given, a certificate under his hand, giving information concerning the

Any superintendent or person in charge who makes default in complying with the requisitions of this section shall be guilty of a misdemeanor. (*n*)

Chargeability of Pauper Lunatics whose Settlements cannot be ascertained where found in certain Boroughs.

XLV. Section fourteen of the Act of the session holden in the eighteenth and nineteenth years of Her Majesty, chapter one hundred and five, shall be repealed, (*o*) and in lieu thereof be it enacted, where any pauper lunatic is not settled in the parish by which or at the instance of some officer or officiating clergyman of which he is sent to an asylum, registered hospital, or licenced house, and it cannot be ascertained in what parish such pauper lunatic is settled, and such lunatic is found in a borough which has a separate court of sessions of the peace, and is not liable, under the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter seventy-six, section one hundred and seventeen, to the payment of a proportion of the sums expended out of the county rate, or is found in any borough which under the Act of the session holden in the twelfth and

death and specifying the finding of the jury with respect to the said particulars, and to the cause of death, and specifying the time and place at which the inquest was held, and the registrar shall in the prescribed form and manner enter the death and particulars. If the death has been previously registered, the said particulars shall be entered in the prescribed manner without any alteration of the original entry.

"Where an inquest is held on any dead body no person shall, with respect to such dead body or death, be liable to attend upon a requisition of a registrar, or be subject to any penalty for failing to give information in pursuance of any other provision of this Act."

s. 20. "(3) Where an inquest is held on the body of any deceased person, a medical certificate of the cause of death need not be given to the registrar, but the certificate of the finding of the jury furnished by the coroner shall be sufficient.

"If any person to whom a medical certificate is given by a registered medical practitioner in pursuance of this section fails to deliver that certificate to the registrar, he shall be liable to a penalty not exceeding forty shillings."

(*n*) See note (*g*) in preceding page.

(*o*) 18 & 19 Vict. c. 105, s. 14, *ante*. By that enactment a previous provision on the same subject, viz., 12 & 13 Vict. c. 82, s. 3, was repealed; but the 13 & 14 Vict. c. 21, s. 5, prevents its revival, notwithstanding the repeal of the repealing enactment by the present statute.

thirteenth years of Her Majesty, chapter eighty-two, (*p*) is exempted from liability to contribute to the payment of the expenses incurred for maintaining pauper lunatics chargeable to the county in which such borough is situate, such lunatic shall be adjudged to be chargeable to the borough in which he is found; and it shall not be lawful for any justices to adjudge such lunatic to be chargeable to any county, nor to make any order upon the treasurer of any county for the payment of any expenses whatsoever incurred or to be incurred in respect of such lunatic.

All the provisions in the Lunacy Act, chapter ninety-seven, (*q*) as to the mode of determining that a pauper lunatic is chargeable to a county, and as to the orders to be made for payment of expenses and other monies in respect of such lunatic, and for the repayment thereof to the treasurer of a county, shall extend to the case of a borough to which a lunatic is made chargeable under this section as if the said provisions were re-enacted in this Act, and such borough were therein mentioned or referred to instead of a county.

Amendment of 8 & 9 *Vict. c.* 100, *s.* 100, *as to Power of administering Oaths.*

XLVI. Any two or more Commissioners or visitors, in exercise of the powers given to them by the one hundredth section of the Lunacy Act, chapter one hundred, (*r*) may, if they think fit, examine on oath (*s*) any person appearing before them as a witness, notwithstanding a summons may not have been served on him in pursuance of the said section.

Definition of Physician, Surgeon, or Apothecary.

XLVII. The term physician, surgeon, or apothecary, (*t*) wherever used in the Lunacy Acts, shall mean a person registered under "The Medical Act," passed in the session

(*p*) 12 & 13 Vict. c. 82, s. 2, *ante*, p. 337.
(*q*) 16 & 17 Vict. c. 97, s. 98, *ante*; s. 99, *ante*.
(*r*) 8 & 9 Vict. c. 100, s. 100, *ante*.
(*s*) As to affirmation, see 8 & 9 Vict. c. 100, s. 114, *ante*.
(*t*) 16 & 17 Vict. c. 96, s. 36, *ante*; 16 & 17 Vict. c. 97, s. 132, *ante*.

holden in the twenty-first and twenty-second years of the reign of Her present Majesty, chapter ninety. (*u*)

Part of section 132 *of* 16 & 17 *Vict. c.* 97, *repealed.*

XLVIII. So much of section one hundred and thirty-two of the Lunacy Act, chapter ninety-seven, as enacts that in that Act, unless there be something in the subject or context repugnant to such construction, the word "county" shall mean a county of a city or county of a town, shall, except with respect to the City of London, be repealed, and all the provisions of the said Act and of the Acts amending the same shall be read and construed accordingly. (*v*)

(*u*) See also the Amending Acts, 22 Vict. c. 21, and 23 & 24 Vict. c. 7 and c. 66; and 37 & 38 Vict. c. 34.

(*v*) 16 & 17 Vict. c. 97, s. 132, *ante;* and see also 26 & 27 Vict. c. 110, preamble, and s. 1, *post;* and 28 & 29 Vict. c. 80, *post.*

SCHEDULE (A). (*a*)

Form of Licence.

Know all Men, that We, the undersigned Justices of the Peace, acting in and for in general [*or* quarter *or* special] sessions assembled, do hereby certify, that *A. B.* of in the Parish of in the County of hath delivered to the Clerk of the Peace a Plan and Description of a House and Premises proposed to be licenced for the reception of Lunatics, situate at in the County of and which has not been previously licenced for that purpose, and hath applied to us for a Licence thereof: And whereas the particulars of the said application have been transmitted to the Commissioners in Lunacy, and their Report in reference to the said application has been received, and has been taken into consideration by us; and we, having considered and approved the application, do hereby authorize and empower the said *A. B.* (he intending *or* not intending to reside therein) to use and employ the said House and Premises for the reception of male [*or* female, *or* male and female] Lunatics, of whom not more than shall be Private Patients, for the space of calendar months from this date.

Given under our hands and seals, this day of in the year of our Lord one thousand eight hundred and

Witness, *Y. Z., Clerk of the Peace.*

(*a*) See s. 14, *ante;* also 8 & 9 Vict. c. 100, s. 30, and schedule A, *ante.*

SCHEDULE (B). (*a*)

County of
Union [*or* Parish of]
District of

QUARTERLY LIST (*b*) OF LUNATIC PAUPERS within the district of the Union of [*or* the Parish of], in the County or Borough of , not in any Asylum. Registered Hospital, or Licenced House.

Name.	Sex.	Age.	Form of Mental Disorder.	Duration of present attack of insanity, and if idiotic, whether or not from birth.	Resident in Workhouse.	Non-Resident in Workhouse, where and with whom resident.	Date of Visit.	In what Condition, and, if ever restrained, why, and by what Means, and how often.

I declare that I have personally examined the several persons whose names are specified in the above list, on the days set opposite their names; and I certify, firstly, with respect

(*a*) See s. 21, *ante;* and 16 & 17 Vict. c. 97, s. 66, *ante;* and the several notes thereon.

(*b*) The Commissioners in Lunacy have advised that, in those instances where no pauper lunatics are resident in the district, the fact should be communicated by making a "nil" return (see their Thirteenth Report, p. 75; and Appendix, *post*).

to those appearing by the above list to be in the workhouse, that the accommodation in the workhouse is sufficient for their reception, and that they are all [*or* all except *A. B.* and *C. D.*] proper patients to be kept in the workhouse; and, secondly, with respect to those appearing by the above list to be resident elsewhere than in the workhouse, that they are all [*or* all except *A. B.* and *C. D.*] properly taken care of, and may properly remain out of an asylum.

I declare that the persons in the above list are to the best of my knowledge the only Pauper Lunatics in the District of the Union of [*or* in the Parish of] who are not in an Asylum, Registered Hospital, or duly licenced House.

(Signed) *A. B.*,
Medical Officer of the District of the Union [*or* Parish] of .

Dated the day of one thousand eight hundred and . (*c*)

(*c*) As regards the pauper lunatics in a workhouse, this return should be made and signed by the medical officer of the workhouse, whether or not he be also the medical officer of the district in which the workhouse is locally situated. This, at least, is the construction which has been given to the statutes by the Commissioners in Lunacy, and the Poor Law Board; the workhouse being apparently regarded, for this purpose, as a "district" of itself.

26 & 27 Vict. c. 110.

An Act to amend the Lunacy Acts in relation to the Building of Asylums for Pauper Lunatics.

[28*th July*, 1863.

16 & 17 *Vict. c.* 97.

Whereas by "The Lunatic Asylums Act, 1853," the justices of every county and borough are required to provide an asylum for the reception of their pauper lunatics, but power is given to two or more counties and boroughs to unite together for the purpose of providing an asylum for their common use: and whereas by the said Act county is defined to include a county of a city or county of a town, and borough is defined to mean every borough, town, and city corporate having a quarter sessions, recorder, and clerk of the peace: and whereas by "The Lunacy Acts Amendment Act, 1862," it is provided that the word "county" shall not, except in the case of the City of London, mean a county of a city or county of a town: and whereas certain counties of towns have quarter sessions, but such quarter sessions are not held by a recorder: and whereas at the date of the passing of the last-mentioned Act certain agreements were pending for the union, with a view to a common asylum, of certain counties, including counties of towns: and whereas it is expedient to confirm such agreements in certain cases, notwithstanding that by virtue of the last-mentioned Act a county of a town is no longer included under the term "county," and is by such exclusion rendered incapable of carrying into effect such agreement: be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Confirmation of certain Agreements between Counties.

I. Where, in pursuance of "The Lunatic Asylums Act, 1853," an agreement for providing a common asylum has

been duly entered into between divers counties, properly so called, and such agreement has been afterwards varied by the admission as a party thereto of a county of a city or county of a town, the original agreement shall be binding on the counties originally parties thereto, in the same manner as if no variation of such agreement had been made. (*a*)

Explanation of section 8 *of* 25 & 26 *Vict. c.* 86. (*b*)

II. Whereas by the eighth section of "The Lunacy Acts Amendment Act, 1862," it is provided to the effect that it shall be lawful for the visitors of any asylum, and the guardians of any parish or union within the district for which the asylum has been provided, to make arrangements, subject to such approval as therein mentioned, for the reception and care in the workhouse of the parish or union of a limited number of chronic lunatics to be selected as therein mentioned: and whereas doubts are entertained whether the expression "chronic lunatics" therein mentioned includes lunatics chargeable to parishes or unions other than the parish or union into the workhouse of which they are proposed to be received: now it is hereby declared, that the words "chronic lunatics" in the said section include chronic lunatics chargeable to other parishes or unions, as well as chronic lunatics chargeable to the parish or union into the workhouse of which they are proposed to be received. (*c*)

(*a*) See preamble, *ante;* and 25 & 26 Vict. c. 111, s. 48, *ante*, as well as 16 & 17 Vict. c. 97, s. 132, *ante;* and 28 & 29 Vict. c. 80, *post.*

(*b*) This should be "c. 111." The enactment intended to be referred to is 25 & 26 Vict. c. 111, s. 8; see *ante.*

(*c*) 25 & 26 Vict. c. 111, s. 8, *ante;* Fifteenth Report of the Poor Law Board, June, 1863, p. 22; and Seventeenth Report of the Commissioners in Lunacy, 1863, pp. 23–25:—The Poor Law Board stated that arrangements made under these enactments would not authorise the detention in the lunatic wards of a workhouse of any dangerous or violent lunatic (see 4 & 5 Wm iv. c. 76, s. 45, *post*); and that as those wards would not, in their opinion, be lunatic asylums within the meaning of 24 & 25 Vict. c. 55, s. 6 (see *post*), the cost of lunatics maintained in them would not be chargeable under that provision upon the common fund of the union.

It will be observed that the 25 & 26 Vict. c. 111, s. 8, requires the concurrence of four distinct authorities; namely—1. The Visitors of the Asylum; 2. The Guardians of the Union or Parish; 3. The Commissioners in Lunacy; 4. The President of the Poor Law Board [now Local Government Board]. The following is a copy of a Minute made by the Commissioners in Lunacy on the subject:—

Short Title.

III. This Act may be cited for all purposes as "The Lunacy Acts Amendment Act, 1863."

CHRONIC LUNATICS.—ARRANGEMENTS FOR THEIR REMOVAL FROM ASYLUMS TO WORKHOUSES.

15*th November*, 1863.

The Board had under further consideration the provisions of the "Lunacy Acts Amendment Act, 1862," s. 8, as explained by the second section of the "Lunacy Acts Amendment Act, 1863," empowering the visitors of any asylum, with the approval of the Commissioners in Lunacy and the President of the Poor Law Board, to make arrangements with the guardians of any parish or union within the district for which the asylum has been provided for the removal from the asylum to the workhouse of such parish or union, and the reception and care therein of a limited number of chronic lunaties, chargeable to the same, or any other parish or union.

Resolved as follows:

1. The arrangements authorised are, in the opinion of the Board, intended to meet the deficiency of accommodation in asylums, and to enable visitors, in special cases, to make provision for the immediate reception into the asylums of all recent and probably curable cases. The Legislature clearly did not contemplate the reception into workhouses generally of the chronic patients referred to, and the constitution thereby of a number of small lunatic establishments; but the selection by the visitors of one or more workhouses, in which adequate accommodation, care, and attendance can be ensured. Consequently all applications for the approval of the Commissioners must originate with visitors of asylums; and no such application received directly from a Board of Guardians can be entertained.

2. Proper rules and regulations, modified according to circumstances, will be required to be prepared and approved. In the meantime the Board consider and determine that the following conditions are (amongst others) indispensable, and will, in all cases, be insisted on, viz.:

(1.) Separate wards properly constructed, arranged and furnished for the patients of the respective sexes. The dormitories to be distinct from the day-rooms, and the former to afford cubical space per patient of 500 feet, and the latter 400. Single bed-rooms to contain at least 600 cubic feet.

(2.) A liberal dietary analogous to that of the asylums.

(3.) Ample means of out-door exercise and recreation.

(4.) Due medical visitation.

(5.) Properly qualified paid attendants.

(6.) Medical and other registers; records similar to those in use in licenced houses.

(See Eighteenth Report of the Commissioners in Lunacy, 1864, pp. 73–77.)

A further enactment on the same subject was passed in 1869; see 31 & 32 Vict. c. 122, s. 43, *post*.

28 & 29 Vict. c. 80.

An Act to explain and amend "The Lunatic Asylum Act, 1853," and "The Lunacy Act Amendment Act, 1862," with reference to Counties of Towns which have Courts of Quarter Sessions, but no Recorder.

[*29th June*, 1865.

Whereas by "The Lunatic Asylum Act, 1853," county is defined to include a county of a city or county of a town, and borough is defined to mean every borough, town, and city corporate having a quarter sessions, recorder, and a clerk of the peace; and whereas by "The Lunacy Acts Amendment Act, 1862," it is provided that the word "county" shall not, except in the case of the City of London, mean a county of a city or county of a town: And whereas certain counties of cities and counties of towns have quarter sessions and clerks of the peace, but no recorders, wherefore the same do not come within the provisions of "The Lunatic Asylum Act, 1853," and the Acts construed as one therewith: And whereas it is expedient to remedy such defect: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Definition of word "County" in Lunatic Asylum Acts.

I. That the word "county" in "The Lunatic Asylum Act, 1853," and the several Acts construed as one therewith, shall be construed to include every county of a city or county of a town having quarter sessions and a clerk of the peace, and no recorder. (*a*)

(*a*) See 16 & 17 Vict. c. 97, s. 132, *ante*; 25 & 26 Vict. c. 111, s. 48, *ante*; and 26 & 27 Vict. c. 110, preamble, and s. 1, *ante*. The following is a list of the counties of cities or towns in England and Wales:—

Powers of Justices of such Counties.

II. The justices of every county of a city or county of a town having quarter sessions and a clerk of the peace, and no recorder, shall have all the powers and authorities conferred on or given to the justices of every borough not having any asylum by section 7 of "The Lunatic Asylum Act, 1853," notwithstanding such county of a city or town may have an asylum of its own: Provided always, that it shall not be obligatory on any such county of a city or town to keep up and maintain any such asylum from and after or during such time as it shall avail itself of the provisions of the said section. (*b*)

This and recited Acts to be construed together.

III. This Act shall be construed as one with "The Lunatic Asylum Act, 1853," and several Acts construed as one therewith, and may be cited for all purposes as "The Lunacy Act Amendment Act, 1865."

Cities (England):—Bristol, Canterbury, Chester, Exeter, Gloucester, London, Lichfield, Lincoln, Norwich, Worcester, York. *Towns* (England):—Berwick-on-Tweed, Kingston-on-Hull, Newcastle-on-Tyne, Nottingham, Poole, Southampton; (Wales): Carmarthen, Haverford West. The county of the city of Coventry was abolished by 5 & 6 Vict. c. 110, and 17 & 18 Vict. c. 35.

(*b*) As to the application of this provision to Haverford West, see Twentieth Report of the Commissioners in Lunacy (1866), p. 13.

34 & 35 Vict. c. 14.

An Act to provide for the vesting of County Property in the Clerk of the Peace for the County.

[25*th May*, 1871.

Committee of Visitors purchasing, &c., Lands under Lunatic Asylums Act, 1853, *may direct such Lands to be conveyed to Clerk of the Peace for the purposes named in Act.*

II. The committee of visitors purchasing or taking in exchange lands under the Lunatic Asylums Act, 1853, may order and direct that such lands may be conveyed to the clerk of the peace for the time being of the county for or on behalf of which, or a division of which, such lands shall be purchased or taken, and his successors, in trust for the purposes of the Lunatic Asylums Act, 1853, and such conveyance when so made shall be valid and effectual in the law, and shall vest such lands in such clerk of the peace and his successors upon trust, for the purposes for which the same were purchased and conveyed, and be by him and them held for such purposes, or otherwise be by him and them sold, conveyed, and disposed of in such manner as the committee of visitors purchasing or taking such lands may from time to time order and direct. (*a*)

(*a*) See 16 & 17 Vict. c. 97, s. 36, *ante*. See also 25 & 26 Vict. c. 111, s. 10, *ante*.

4 & 5 Wm. IV. c. 76.

An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.

[14*th August*, 1834.

No Lunatic, insane Person, or dangerous Idiot, to be detained in a Workhouse more than Fourteen Days.

XLV. And be it further enacted, that nothing in this Act contained shall authorise the detention in any workhouse of any dangerous lunatic, insane person, or idiot, for any longer period than fourteen days; (*a*) and every person wilfully detaining in any workhouse any such lunatic, insane person, or

(*a*) In an Instructional Letter, dated 5th February 1842, accompanying their General Workhouse Rules, the Poor Law Commissioners stated as follows (Eighth Report, 1842, p. 111):

"The words 'dangerous lunatic, insane person, or idiot,' in this clause, are to be read 'dangerous lunatic, dangerous insane person, or dangerous idiot,' according to the opinion of the Law Officers of the Crown given to the Poor Law Commissioners. See Theobald's 'Treatise on the Poor Laws,' p. 50, note.

"Inasmuch as there are not in a workhouse the proper conveniences for the detention of dangerous lunaties, it is desirable that any dangerous lunatic who may be temporarily deposited in one, should not be detained there during a longer time than is necessary for taking the steps preparatory to his removal to a county lunatic asylum, or licenced house.

"From the express prohibition of the detention of dangerous persons of unsound mind in a workhouse, contained in the clause just cited, coupled with the prevalent practice of keeping insane persons in workhouses before the passing of the Poor Law Amendment Act, it may be inferred that persons of unsound mind, not being dangerous, may be legally kept in a workhouse. It must, however, be remembered, that with lunaties, the first object ought to be their cure, by means of proper medical treatment. This can only be obtained in a well-regulated asylum; and therefore the detention of any curable lunatic in a workhouse is highly objectionable on the score both of humanity and economy. The Commissioners indeed believe that most of the persons of unsound mind, detained in workhouses, are incurable harmless idiots. But although the detention of persons of this description in a workhouse does not appear to be liable to objec-

idiot, for more than fourteen days, shall be deemed guilty of a misdemeanor: provided always, that nothing herein con-

tion on the ground of illegality or of defective medical treatment, they nevertheless think that the practice is often attended with serious inconveniences, and they are desirous of impressing upon the guardians the necessity of the utmost caution and vigilance in the management of any persons of this class who may be in the workhouse." . . .

The Report made by the Select Committee of the House of Commons, on 27th July, 1860 (Sess. Papers, No. 495, page v; *ante*, p. 324) contains the following passage:—

"The chief evil for which a remedy is required is the detention of a large number of pauper lunatics in workhouses. The number of these lunacies amounted to no less than 6,800 on 1st January, 1857, and on 1st January, 1859, to 7,632. The law relating to this class of lunatics is certainly in an unsatisfactory state. By the Poor Law Amendment Act the detention in any workhouse of 'any dangerous lunatic, insane person, or idiot,' for a longer period than fourteen days, is expressly prohibited; and the word 'dangerous' is read as applicable to each of the three classes of mentally disordered persons who are there mentioned. [See Appendix E to Thirteenth Report of Commissioners in Lunacy, pp. 140, 141; 4 & 5 Wm. iv. c. 76, s. 45]. But with regard to those who are not dangerous, the statutory provisions are ambiguous. On the one hand, it seems to have been contemplated by the Legislature [16 & 17 Vict. c. 97, ss. 67-72] that all pauper lunacies should be sent to some asylum, registered hospital, or licenced house, under an order by a justice or justices; on the other hand, there are provisions in the same Act [16 & 17 Vict. c. 97, ss. 64 and 66], and also in another Act of Parliament passed in the same session [16 & 17 Vict. c. 96, s. 28], which seem to recognize, to a certain extent, the detention in workhouses of paupers deemed by law to be insane. The consequence is, that large numbers of pauper lunacies are kept in these houses without a certificate of their mental condition, and without an order from any magistrate regarding them as lunatics, although a large portion of such persons, especially in the rural districts, may be correctly described as harmless lunatics, who, if kept under a slight degree of supervision, are capable of useful and regular occupation, or whose infirmity of mind is consequent on epilepsy, or paralysis, or fatuity from old age. It cannot be denied that with regard to those who are really lunatics, there is a great absence of proper supervision, attendance, and medical treatment. In some workhouses there are not even separate wards; mechanical restraint is frequently applied, because the imperfect state of the accommodation will not admit of a better mode of treatment; in many cases the medical officers of a union cannot have the special knowledge requisite for the management of the insane; and it may generally be concluded that the special appliances of a union workhouse are not by any means equivalent, as to this class of inmates, to those of a lunatic asylum.

"The state of the law on this branch of the subject appears to require amendment. Your Committee are not prepared to recommend that all these cases, without exception, should be removed to asylums;

tained shall extend to any place duly licenced for the reception of lunatics and other insane persons, or to any workhouse being also a county lunatic asylum. (*b*)

but they are of opinion that no person should be detained in a workhouse respecting whose sanity a doubt exists, without a medical certificate, renewable quarterly, stating that the patient is a proper patient to be kept in the workhouse; that there should, if possible, be distinct wards for such patients, with distinct attendance; that the guardians of the union should specially visit such patients once in each quarter, and make a special entry on each such visit of their state and condition; that the Commissioners should also visit them at least once in each year, and that the same power of removing any patient to an asylum should be given to the Commissioners as that which the justices now have."

For the enactments in which these suggestions have been embodied, see 25 & 26 Vict. c. 111, ss. 19–38, *ante*.

(*b*) It is desirable also to refer to the regulations bearing on this subject, which are contained in the General Consolidated Order of the Poor Law Commissioners, dated 24th July 1847, though it will, of course, be necessary to ascertain, as regards each union or parish, whether that or any similar order is in force therein. See especially Articles 91, 92, 99 (firstly); 101, 207, No. 4; 208, Nos. 14, 27 and 28; 210, No. 15 (Glen's Poor Law Board Orders, seventh edition, 1871). As to Article 101, see Introduction, *ante*, p. 325. As to the arrangements for bathing insane inmates of workhouses, see the Poor Law Board's Circular of 21st March, 1870, Appendix, *post*.

It may be added that the General Order for Accounts, issued by the Poor Law Commissioners, requires the master of the workhouse to keep an "In-door Relief List," which comprises certain columns for the "lunatics, insane persons, and idiots," maintained in the workhouse (Glen's Poor Law Board Orders, seventh edition, 1871; Ninth Report of the Commissioners in Lunacy, p. 39).

30 & 31 Vict. c. 106.

An Act to make the Poor Law Board permanent, and to provide sundry Amendments in the Laws for the Relief of the Poor.

[*20th August*, 1867.

Guardians empowered to detain Indoor Paupers.

XXII. When there shall be in any workhouse a poor person suffering from mental disease, or from bodily disease of an infectious or contagious character, and the medical officer of such workhouse shall upon examination report in writing that such person is not in a proper state to leave the workhouse without danger to himself or others, the guardians may direct the master to detain such person therein, or, if the guardians be not sitting the master of the workhouse may, until the next meeting of the guardians, detain him therein, and such person shall not be discharged from such work house until the medical officer shall in writing certify that such discharge may take place; provided, however, that this enactment shall not prevent the removal of a lunatic to a lunatic asylum, registered hospital, or licenced house, when such removal is otherwise required by law, nor the removal of any poor person after the parent or next of kin of such person shall have given to the guardians such an undertaking as they shall deem satisfactory to provide for the removal, charge, and maintenance of such person with due care and attention while the malady continues; and this provision shall apply to every district school and district asylum, and to the managers, board of management, medical officer, superintendent, or master thereof respectively. (*a*)

(*a*) See Twentieth Report of the Commissioners in Lunacy, 1866, p. 22, and Twenty-second Report, 1868, p. 88. It is directed by Article 115 of the General Consolidated Order of the Poor Law Commissioners, of 24th July, 1847, that "any pauper may quit the workhouse upon giving to the master, or (during his absence or inability to act) to the matron, a reasonable notice of his wish to do so." The late Lord Campbell, whilst Attorney-General, and the late Sir William

As to Pauper Lunatics sent from Boroughs.

XXIII. When any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county, and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable. (*b*)

Follett, expressed their opinion that there was no legal power to detain a person in the workhouse on the ground of insanity, unless by reason of danger to the insane person, or to others, from his insanity (see the note to Article 115, in Glen's Poor Law Board Orders, seventh edition, 1871). As to the right at common law to restrain a lunatic, see Introduction, chap. I., *ante*, pp. 87–92; see also Introduction, chap. II., *ante*, pp. 326, 327.

(*b*) See 31 & 32 Vict. c. 122, s. 14, *post;* and Introduction, *ante*, p. 332. See also the Poor Law Board's Circular of 4th February, 1868, Appendix, *post*, and 39 & 40 Vict. c. 61, s. 26, *post*.

31 & 32 VICT. c. 122.

An Act to make further Amendment in the Laws for the Relief of the Poor in England and Wales.

[31*st July*, 1868.

Guardians may pay the Cost of Idiots sent to Asylums for Idiots.

XIII. The guardians of any union or parish may, with the consent of the Poor Law Board, (*a*) send an idiotic pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription, and they may with the like consent send any idiotic, imbecile, or insane pauper who may lawfully be detained in a workhouse to the workhouse of any other union or parish, with the consent of the guardians of such last-mentioned union or parish, and pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom, and the expenses of his burial, when necessary. (*b*)

The 30 & 31 *Vict. c.* 106, *s.* 23, *to have a retrospective Effect.*

XIV. The provisions contained in the twenty-third clause of the Poor Law Amendment Act, 1867, shall apply to pauper lunatics sent to an asylum before the passing of that Act as well as since. (*c*)

(*a*) Now the Local Government Board.

(*b*) See also 25 & 26 Vict. c. 43, which empowers boards of guardians to send pauper children to schools certified by the Local Government Board, the word "school" being defined by s. 10 of the Act so as to extend to any institution established for the instruction of idiotic persons. As to the Western Counties Idiot Asylum, at Starcross, certified under this Act, see the Nineteenth Report of the Commissioners in Lunacy, 1865, p. 47; and the Thirtieth Report, 1876, p. 61.

(*c*) See 30 & 31 Vict. c. 106, s. 23, *ante;* and Introduction, *ante*, p. 332, and 39 & 40 Vict. c. 61, s. 26, *post.*

Certain Lunatics may be received in Workhouses from County Asylums.

XLIII. The guardians of any union or parish may, with the consent of the Poor Law Board (*d*) and the Commissioners in Lunacy, and subject to such regulations as they shall respectively prescribe, receive into the workhouse any chronic lunatic not being dangerous who may have been removed to a lunatic asylum, and selected by the superintendent of the asylum and certified by him to be fit and proper so to be removed, upon such terms as may be agreed upon between the said guardians and the committee of visitors of any such asylum, and thereupon every such lunatic, so long as he shall remain in such workhouse, shall continue a patient on the books of the asylum for and in respect of all the provisions in the Lunacy Acts, so far as they relate to lunatics removed to asylums. (*e*)

(*d*) Now the Local Government Board.

(*e*) See Introduction, *ante*, p. 327; and 25 & 26 Vict. c. 111, s. 8, *ante;* and 26 and 27 Vict. c. 110, s. 2, *ante.* See also the Poor Law Board's Circular of 20th November, 1868, Appendix, *post;* and the Twenty-third Report of the Commissioners in Lunacy (1869), p. 92.

7 & 8 Vict. c. 101.

An Act for the further Amendment of the Laws relating to the Poor in England.

[9*th August*, 1844.

Relief of Married Women in certain cases to be subject to the same Conditions as if they were Widows.

XXV. And be it enacted, that so long as it may appear that the husband of any woman is beyond the seas, or in custody of the law, or in confinement in a licenced house or asylum as a lunatic or idiot, all relief given to such woman, or to her child or children, shall, notwithstanding her coverture, be given to such woman in the same manner and subject to the same conditions as if she was a widow; but nothing herein contained shall diminish or affect the obligations or liabilities of such husband in respect of such relief.

[*Expenses incurred for insane Paupers may be levied off their Estates.*]

[XXVII. And be it enacted, that if it be made to appear to any two justices that any insane person, lunatic, or idiot chargeable to any parish, (*a*) hath an estate more than sufficient to maintain his family, they shall by order under their hands and seals direct the overseers (*a*) of the parish to which such person is chargeable to seize so much of any money, to seize and sell so much of any goods and chattels, or to receive so much of the rent of the lands or tenements of such person who (*b*) is proved to such justices to be necessary to pay any charges incurred in providing for the removal, maintenance, clothing, medicine, and care of such

(*a*) See 16 & 17 Vict. c. 97, s. 104, *ante;* and s. 94, *ante;* as well as 12 & 13 Vict. c. 103, s. 16, *post;* and 39 & 40 Vict. c. 61, s. 23, *post.* The above enactment (7 & 8 Vict. c. 101, s. 27) was repealed in 1874 by 37 & 38 Vict. c. 96. Guardians of the poor were referred to in the last clause, but overseers alone were mentioned in the first clause; and the whole enactment was confined to the cases of insane persons chargeable to a parish.

(*b*) This should be "as."

person; and if any trustee or other person having the possession, custody, or charge of any property of an insane person, lunatic, or idiot, or if the governor and company of the Bank of England, or any other person or persons, having in his or their hands any stock, interest, dividend, or annuity due to any such insane person, lunatic, or idiot, pay any money to any overseer, (*c*) or to any guardians (*c*) of the poor to defray the charges incurred by any parish (*c*) in the removal, maintenance, clothing, medicine, or care of such insane person, lunatic, or idiot, the receipt of such overseer (*c*) or of the clerk of such guardians (*c*) shall be a good discharge to such trustee or other person aforesaid. (*d*)]

(*c*) See note (*a*) on preeeding page.

(*d*) In *re* Upfull's Trust (3 Mac. & Gor. 281; 21 L.J.R. (N.S.) eh. 119), an order was made on a petition presented by the guardians of the poor of the Brentford Union under the Trustees Relief Aet, 10 & 11 Vict. c. 96, for payment to them out of a fund paid into court by trustees in whieh a lunatic was interested, of sums expended by the guardians in support of the lunatic—Lord Truro, C., holding that by the Trustees Relief Act the Court was placed in the position of the trustees, and that the trustees might have made the payment under the 7 & 8 Vict. c. 101, s. 27.

In *re* Burbidge (3 Mac. & Gor. 1), on the petition of the committee of the person and estate of a lunatic, Lord Truro, C., directed an inquiry whether there was any sum due to the brother of the lunatie (who, it was alleged, had at one time maintained him, though not compellable to do so), and to the union (which it was alleged had afterwards maintained him), and whether it would be fit and proper that such sum should be raised by sale of a reversionary interest belonging to the lunatie. His Lordship added, that he thought it very inexpedient that where a lunatie has property he should be suffered to remain in a workhouse.

12 & 13 VICT. C. 103.

An Act to continue an Act of the last Session of Parliament, for charging the Maintenance of certain Poor Persons in Unions upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor.

[*1st August*, 1849.

Persons chargeable to the Common Fund brought within the provisions of 5 *Geo. IV., etc.*

III. And be it enacted, that the chargeability of any person to the common fund of a union shall have the same effect and shall be attended with the same consequences as the chargeability of any poor person to a parish in respect of proceedings to be taken under the Act of the fifth year of the reign of His late Majesty George the Fourth, intituled "An Act for the Prevention of Vagrancy," or under the statutes for the removal from England of poor persons born in Scotland or Ireland, or in the Isle of Man, or Scilly, Jersey, or Guernsey, or under the statutes for the removal of lunatic paupers to asylums, or under any statute against unlawfully causing or procuring the removal of any poor person. (*a*)

Removal of a Lunatic to an Asylum, or of a Pauper to a Workhouse of the Union, not to be deemed an interruption of the Residence under 9 & 10 *Vict. c.* 66, *but the Time to be excluded from computation.*

IV. And be it enacted, that the removal of any lunatic pauper to an asylum, licenced house, or registered hospital, under the authority of the statutes in that behalf, or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed to be an interruption of the

(*a*) See also 11 & 12 Vict. c. 110, s. 8, and 39 & 40 Vict. c. 61, s. 25.

residence of such pauper within the meaning of the statute of the tenth year of the reign of Her Majesty, intituled "An Act to amend the Laws relating to the Removal of the Poor," but the time spent in such lunatic asylum, licenced house, or registered hospital or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed. (*b*)

V. [Repealed by 16 & 17 Vict. c. 97, s. 102, *ante*.]

Guardians may appropriate certain Property of Paupers.

XVI. And be it enacted, that where any pauper shall have in his possession or belonging to him any money or valuable security for money, the guardians of the union or parish within which such pauper is chargeable may take and appropriate so much of such money or the produce of such security, or recover the same as a debt before any local court, as will reimburse the said guardians for the amount expended by them, whether on behalf of the common fund or of any parish, in the relief of such pauper, during the period of twelve months prior to such taking and appropriation, or prior to such proceeding for the recovery thereof (as the case may be); and in the event of the death of any pauper having in his possession or belonging to him any money or property, the guardians of the union or parish wherein such pauper shall die may reimburse themselves the expenses incurred by them in and about the burial of such pauper, and in and about the maintenance of such pauper at any time during the twelve months previous to the decease. (*c*)

(*b*) See 24 & 25 Vict. c. 55, as well as 9 & 10 Vict. c. 66.

(*c*) In *Cleaver* v. *the Next of Kin of M'Kenna*, 35 L.J.R. (N.S.) Prob. 91; 13 L.T. (N.S.) 411, administration of the effects of a pauper who died chargeable to a union was granted to the guardians of the union as creditors under 12 & 13 Vict. c. 103, s. 16. See also *Windeatt* v. *Sharland*, 40 L. J. R. (N.S.), Prob. 21; 23 L. T. (N.S.) 877; L. R. 2 Prob. 217; and 41 L. J. R. (N.S.), Prob. 9; 25 L. T. (N.S.) 574. See also 16 & 17 Vict. c. 97, s. 94, *ante;* and s. 104, *ante;* and 7 & 8 Vict. c. 101, s. 27, *ante*, now repealed. See further, 39 & 40 Vict. c. 61, s. 23, *post*.

13 & 14 VICT. C. 101.

An Act to continue two Acts passed in the twelfth and thirteenth years of the Reign of Her Majesty, for charging the Maintenance of certain Poor Persons in Unions in England and Wales upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor.

[14*th August*, 1850.

An Order for paying the whole or part of the Cost of Maintenance of a Lunatic Married Woman maintained in any Lunatic Asylum, Licenced House, or Registered Hospital, and chargeable to any Union or Parish, may be made upon her Husband.—11 & 12 *Vict. c.* 43.

V. And be it enacted, that where any married woman being lunatic shall be duly removed to any asylum, licenced house, or registered hospital under any of the statutes in such behalf, any two justices having jurisdiction in the place wherein the husband of such lunatic shall dwell, (*a*) upon application by or on behalf of the guardians of the union or of the parish having a separate board of guardians, or the overseers of the parish, to which union or parish respectively such lunatic shall be or become chargeable, may summon such husband to appear before them to show cause why an order should not be made upon him to maintain or contribute towards the maintenance of his wife in such asylum, licenced house, or registered hospital; and upon his appearance, or in the event of his not appearing upon proof of due service of such summons upon him, such justices may (if they think fit) make an order upon him to pay such sum, weekly or otherwise, for or towards the cost of the maintenance of such lunatic, as after consideration of all the circumstances of the case shall appear to them to be proper, and determine in such order how and to whom the payments shall from

(*a*) See 39 & 40 Vict. c. 61, s. 20, *post*

time to time be made, (*b*) which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the statute passed in the twelfth year of the reign of Her Majesty, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace within England and Wales with respect to summary Convictions and Orders," for the enforcing of orders of justices requiring the payment of a sum of money. (*c*)

(*b*) "The general obligation of a husband to provide a maintenance for his wife, whenever he has the ability to do so, has long been secured by law in ordinary cases. There was one important exception, however, where the wife, having become lunatic, had been removed under legal authority to a lunatic asylum. In cases of this kind, it was at least doubtful whether there existed any means of compelling the husband to contribute towards the expense of her maintenance in the asylum. Great hardship has been frequently occasioned to parishes, who have been burthened with the heavy expense of such maintenance, without the means of obtaining from the husband even a partial reimbursement. It is now enacted, however, that when a married woman is maintained as a lunatic patient in an asylum or licenced house at the charge of any parish or union, her husband may be compelled, by the order of two justices, to pay either the whole expense or such portion of it as the justices may think proper upon consideration of all the circumstances of the particular case." (Third Annual Report of the Poor Law Board, 1850, p. 16.) See also the "Report of the Poor Law Commissioners on the further Amendment of the Poor Law," 1839, Appendix B, No. 11, p. 297; and the "Official Circular," 30th June, 1843, p. 110; and 1st June 1847, p. 92. The Married Women's Property Act, 1870, 33 & 34 Vict. c. 93, s. 13, empowers justices to make such an order on a wife having separate property, for the maintenance of her husband, as they may make on a husband for the maintenance of his wife under s. 33 of 31 & 32 Vict. c. 122, which refers to ordinary relief, and not to maintenance in a lunatic asylum. It appears, therefore, that a wife having separate property is not liable for her husband's support in such an asylum.

(*c*) The 11 & 12 Vict. c. 43, s. 35, enacts:—"Nothing in this Act shall extend or be construed to extend to any warrant, etc. . . . nor to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person." This proviso, however, will not interfere with the operation of the above enactment, which is of subsequent date. See also 26 & 27 Vict. c. 77.

19 & 20 Vict. c. 15.

An Act for further regulating the Payment of the Out-Pensioners of Greenwich and Chelsea Hospitals.

[11*th April*, 1856.

As to care of Lunatic Pensioners.

IX. In case any Chelsea or Greenwich pensioner shall be or become insane, it shall be lawful for the Secretary at War (*a*) for the time being, upon being satisfied of such insanity, to order that the pension of such insane pensioner, or so much thereof as shall appear to the said Secretary at War (*a*) to be necessary for his care and maintenance, shall be paid to such guardians of the poor (*b*) or overseers, (*b*) . . . or to the wife, child, or any other person to whom the care of such insane pensioner may be intrusted, or who may be chargeable for or liable to the expense of his care and maintenance; and the receipt of the person or persons to whom the same shall be so paid shall be a sufficient voucher and discharge for so much money as shall appear to have been paid thereon: provided always, that where no claim or demand shall be made for the support of any such insane pensioner, or where the charge for his care and maintenance does not amount to the full rate of his pension, then and in every such case it shall be lawful for the Secretary at War, (*a*) at his discretion, to order his pension, or so much thereof as may not be necessary for his care and maintenance as aforesaid, to be paid to his wife or child or children, if he have any.

(*a*) See 26 & 27 Vict. c. 12, by which the office of Secretary at War was abolished, and the powers and duties attached to that office by the Acts mentioned in the schedule, including 19 & 20 Vict. c. 15, were transferred to the Secretary of State for War.

(*b*) "The guardians of the poor of any union or parish, or the overseers of any parish or township not under a board of guardians." See s. 8 of the Act.

39 & 40 Vict. c. 61.

An Act to provide for the better arrangement of divided parishes and other local areas, and to make sundry amendments in the Law relating to the Relief of the Poor in England.

[15*th August*, 1876.

Jurisdiction of Justices to make Orders on Husband of a Lunatic.

XX. Where an order upon the husband of a lunatic to contribute towards her maintenance is sought to be obtained under the provisions of section five of the Poor Law Amendment Act, 1850, the justices having jurisdiction in the union or parish, the guardians whereof shall make the application, shall be empowered to issue the summons and make the order instead of the justices having jurisdiction in the place where he may dwell. (*a*)

Trustees may pay Cost of Pauper's Relief out of Annuity payable to such Pauper.

XXIII. Where any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may from time to time pay to the board of guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him as a debt, or from his executors, adminis-

(*a*) See 13 & 14 Vict. c. 101, s. 5, *ante*.

trators, or assigns in case of his death, the sum so expended by them as aforesaid, and the managing body of such society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be required to pay the same to such guardians, and shall be exonerated on payment thereof from any further liability.

Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf. (*b*)

Provision for Pauper Lunatics sent from Boroughs to Licenced Houses and Registered Hospitals.

XXVI. Where any pauper lunatic shall have been or shall hereafter be sent from any part of a borough wholly or partly comprised within a union or parish to any licenced house or registered hospital, and the account of the charges for the maintenance of such lunatic therein shall be sent to the guardians of the said union or parish, their clerk shall divide the said account into two parts, one of which shall contain the amount which would have been paid for such lunatic if he had been maintained in the asylum of the county wherein the said union or parish or the greater part of it is comprised, and the other shall contain the extra sum in such account, and the said guardians having paid the whole of such charges may send the second account, together with an account of any extra expenses caused by the removal of such lunatic to the place of confinement, to the town council of the borough from which such lunatic was so sent, and such town council shall thereupon pay the amount of such ac-

(*b*) See 12 & 13 Vict. c. 103, s. 16, *ante*; 7 & 8 Vict. c. 101, s. 27, *ante*, now repealed; and 16 & 17 Vict. c. 97, ss. 94 & 104, *ante*.

counts to the said guardians, and if the same be not paid the amount may be recovered by the said guardians by process in any court of law as a debt. This section shall not apply to any borough which has provided or contributed to the providing of a pauper lunatic asylum. (*c*)

(*c*) See 30 & 31 Vict. c. 106, s. 23, *ante;* and 31 & 32 Vict. c. 122, s. 14, *ante*, which refer to pauper lunatics in county asylums. The present enactment relates to pauper lunatics in registered hospitals or licenced houses.

22 & 23 Vict. c. 49.

An Act to provide for the Payment of Debts incurred by Boards of Guardians in Unions and Parishes and Boards of Management in School Districts.

[13*th August*, 1859.

Whereas it is expedient to define and limit the period during which any debt hereafter incurred by guardians of unions or parishes or by district boards of management in the administration of the laws for the relief of the poor may be paid, and to make provision, in respect of debts heretofore lawfully incurred by them, for payment of the same: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

When Debts in future are to be paid.—Power to the Poor Law Board to extend the time.

I. With respect to any debt, claim, or demand which may, after the passing of this Act, be lawfully incurred by or become due from the guardians of any union or parish, or the board of management of any school or asylum district, such debt, claim, or demand shall be paid within the half-year in which the same shall have been incurred or become due, or within three months after the expiration of such half-year, but not afterwards, the commencement of such half-year to be reckoned from the time when the last half-year's account shall or ought to have been closed according to the order of the Poor Law Commissioners or Poor Law Board: (*a*) provided that the Poor Law Board, (*a*) by their order, may, if they see fit, extend the time within which such payment shall be made for a period not exceeding twelve months after the date of such debt, claim, or demand. (*b*)

(*a*) Now the Local Government Board.

(*b*) A creditor of the guardians cannot recover in an action commenced after the expiration of the half-year and three months, referred

Provision for Actions against Guardians or Managers.

IV. If any person claiming any debt or demand shall have commenced or shall hereafter commence proceedings in any court of law or equity, or before any justice or other competent authority, within the time hereinbefore limited, or within the time to which the Poor Law Board (*c*) may grant extension, and shall with due diligence prosecute such proceedings to judgment or other final settlement of the question, such judgment shall be satisfied by the guardians or managers against whom or against whose officer the same may be brought, notwithstanding that such judgment may be recovered or such final settlement arrived at after the expiration of the period hereinbefore provided, and all proceedings taken by mandamus or otherwise for the enforcing of such judgment without delay shall be deemed to be within the operation of this section. (*d*)

Interpretation of Terms.

VII. The words used in this Act shall be construed in like manner as the same words are directed to be construed by the Act of the fourth and fifth years of King William the Fourth, chapter seventy-six, (*e*) or any subsequent Act amending or explaining the same.

to in 22 & 23 Vict. c. 49, s. 1, if the time for payment has not been extended by the Poor Law Board, although at the time of the commencement of the action they might have done so. *Per* Pigott, B.—The Act is in effect a statute of limitations, and should be looked at as such. *Semble*—If the Poor Law Board afterwards extend the time for payment, a fresh action may be brought. *Baker* v. *Billericay Union*, 9 Jur. (N.S.) 1201; 9 L. T. (N.S.) 486; 33 L. J. R. (N.S.) M.C. 40.

(*c*) Now the Local Government Board.

(*d*) *Baker* v. *Billericay Union*. referred to in preceding note. (*b*)

(*e*) See 4 & 5 Wm. iv. c. 76, s. 109.

24 & 25 Vict. c. 55.

An Act to amend the Laws regarding the Removal of the Poor and the Contribution of Parishes to the Common Fund in Unions.

[*1st August*, 1861.

Lunatics to be chargeable upon the Common Fund.

VI. The cost of the examination (*a*) of any lunatic pauper, present or future, of his removal to (*a*) and from (*a*) and his maintenance in (*a*) any asylum, licenced house, or registered hospital, who would under any provision of the sixteenth and seventeenth Victoria, chapter ninety-seven, (*b*) be chargeable to a parish (*c*) in a union, (*d*) shall from and after the twenty-fifth day of March next be borne by the common fund of the union (*d*) comprising such parish. (*e*)

Orders in Lunacy may be obtained by or appealed against by Boards of Guardians.—Proviso for pending Appeals.

VII. The guardians (*f*) of any union (*d*) may obtain (*g*)

(*a*) See 16 & 17 Vict. c. 97, ss. 69, 80, and 120; and ss. 95, 96, 97, 99, 100, 101, and 103, *ante*. See also the proviso to s. 94, *ante;* and s. 118, *ante*.

(*b*) This does not include criminal lunatics, as they do not become chargeable under 16 & 17 Vict. c. 97. See "Statutes relating to Criminal Lunatics," *post;* and especially 3 & 4 Vict. c. 54, s. 2, *post;* and 27 & 28 Vict. c. 29, s. 5, *post*.

(*c*) As to pauper lunatics in boroughs, see 16 & 17 Vict. c. 97, s. 7, *ante;* s. 42, *ante;* s. 54, *ante;* and 25 & 26 Vict. c. 111, ss. 6, 7, *ante*. See also 30 & 31 Vict. c. 106, s. 23, *ante;* and 31 & 32 Vict. c. 122, s. 14, *ante*.

(*d*) As to the meaning of the word "union," see s. 12, *post;* and 4 & 5 Wm. iv. c. 76, s. 109. See also 28 & 29 Vict. c. 79, *post*.

(*e*) See Sixteenth Report of the Commissioners in Lunacy, 1862, pp. 68, 69. See also 16 & 17 Vict. c. 97, s. 102, and the notes thereon, *ante*.

(*f*) It is the duty of the clerk to the guardians to make the application for the orders on behalf of the guardians (Glen's Poor Law Board Orders, seventh edition, 1871).

(*g*) As to obtaining, see 16 & 17 Vict. c. 97, s. 97, *ante;* and s. 98, *ante;* and as to appealing against or defending, see ss. 107–116, *ante*. The abandonment of an order is not mentioned; but on that point, see s. 117, *ante;* and as to an appeal against the refusal of an order, see s. 106, *ante*.

orders (*h*) upon the guardians of any other union, (*i*) or upon the guardians or overseers of any parish not comprised in a union, (*i*) or upon the treasurer of the county, (*j*) and may appeal against (*k*) or defend (*k*) any orders in respect of any lunatic paupers hereby (*l*) made chargeable upon the common fund of the union, (*i*) in like manner and subject to the same incidents and provisions as are contained in the said last cited (*m*) Act in respect of lunatic paupers chargeable to any parish in such union: (*i*) provided that every appeal now pending may be continued and determined as though this Act had not been passed.

Interpretation of Terms, and consolidation of the Acts.

XII. The words used in this Act shall be construed in the like manner as in the said Act of King William the Fourth; (*n*) and the provisions contained therein and in the subsequent Acts explaining and extending the same, and not repealed, shall, so far as they shall be consistent herewith, be extended to this Act.

(*h*) Orders upon relations, under 43 Eliz. c. 2. s. 6, are not mentioned; but as to these, see 11 & 12 Vict. c. 110, s. 8; and 39 & 40 Vict. c. 61, s. 25; and as to the husbands of lunatic wives, see 13 & 14 Vict. c. 101, s. 5, *ante*.

(*i*) See note (*d*) on preceding page.

(*j*) It will be observed that s. 6 (*ante*) does not interfere with the chargeability of lunaties to a county, under 16 & 17 Vict. c. 97, s. 98, *ante*.

(*k*) See note (*g*) above.

(*l*) s. 6, *ante*.

(*m*) 16 & 17 Vict. c. 97 (see s. 6, *ante*).

(*n*) 4 & 5 Wm. iv. c. 76, s. 109.

28 & 29 Vict. c. 79.

An Act to provide for the better Distribution of the Charge for the Relief of the Poor in Unions.

[29*th June*, 1865.

So much of sect. 26 *of* 4 & 5 *Wm. IV., c.* 76, *as requires Parishes in Unions to defray Expenses of their own Poor repealed; and Expenses thenceforth incurred to be charged to the Common Fund.*

I. From and after the 25th day of March, 1866, so much of the twenty-sixth section of the fourth and fifth William the Fourth, chapter seventy-six, as requires that each of the parishes in a union formed under the authority of that Act shall be separately chargeable with and liable to defray the expense of its own poor, whether relieved in or out of the workhouse of such union, shall be repealed; and all the cost of the relief to the poor, and the expenses of the burial of the dead body of any poor person under the direction of the guardians, or any of their officers duly authorised, in such union thenceforth incurred, and all charges thenceforth incurred by the guardians of such union in respect of vaccination and registration fees and expenses, shall be charged upon the common fund thereof. (*a*)

(*a*) See also 24 & 25 Vict. c. 55, s. 6, *ante;* and Introduction, *ante*, 330.

30 Vict. c. 6.

An Act for the establishment in the metropolis of asylums for the sick, insane, and other classes of the poor; and of dispensaries; and for the distribution over the metropolis of portions of the charge for poor relief; and for other purposes relating to poor relief in the metropolis.

[29*th March*, 1867.

Representative of Commissioners in Lunacy.

XXX. Where the asylum is provided for reception and relief of the insane, the Commissioners in Lunacy may, if they think fit, depute one of their body, or appoint from time to time, a special commissioner, and the person so deputed or appointed shall be entitled to attend meetings of the managers and take part in their proceedings, but not to vote; and every such asylum shall be considered as a workhouse within the meaning of the Lunacy Acts as defined by the twenty-fifth and twenty-sixth Victoria, chapter one hundred and eleven. (*a*)

(*a*) See 25 & 26 Vict. c. 111, s. 1, *ante*.

APPENDIX.

List of Documents Printed.

PAGE

1. Circular Letter of Poor Law Board to Medical Officers, 19th October, 1853 543
2. Circular Letter of Poor Law Board to Clerks to Guardians, 20th October, 1853 544
3. Circular Letter of Poor Law Board to Clerks to Guardians, 3rd January, 1854 545
4. Circular Letter from the Commissioners in Lunacy to Clerks to Guardians, and to Overseers . . . 546
 Enclosure—Lunacy, Medical Certificates, Instructions 547
5. Extract from the Thirteenth Report of the Commissioners in Lunacy, 31st March, 1859, pp. 74–76. . 547
6. Circular Letter of Poor Law Board to Boards of Guardians, 27th February, 1857 549
7. Circular Letter of Poor Law Board to Boards of Guardians, 15th December, 1862 550
8. Circular Letter of Poor Law Board to Boards of Guardians, 31st January, 1865 553
 Enclosure—20th December, 1864. 554
9. Circular Letter of Poor Law Board to Boards of Guardians, 26th November, 1867 555
10. Circular Letter of Poor Law Board to Boards of Guardians, 4th February, 1868 556
11. Circular Letter of Poor Law Board to Boards of Guardians, 20th November, 1868 558
12. Circular Letter of Poor Law Board to Boards of Guardians—Insane Inmates of Workhouses—Baths.—21st March, 1870 559
 Baths—Regulations for the guidance of the Attendants 560
13. Circular Letter of Local Government Board to Boards of Guardians, 10th August, 1872 561
14. Circular Letter of Local Government Board to Medical Officers of Workhouses, 21st April, 1873 . . . 562

PAGE

15. Circular Letter of Local Government Board to Boards of Guardians, 26th April, 1875 562
16. Circular Letter of Local Government Board to County Treasurers, 26th April, 1875 563
17. Circular Letter of Local Government Board to Town Clerks, 26th April, 1875 564
18. Circular Letter of Local Government Board to District Auditors, 26th April, 1875 564
19. Extract from the Thirtieth Report of the Commissioners in Lunacy, 31st March, 1876, p. 78 . . 565

APPENDIX.

[1. *Circular Letter of Poor Law Board to Medical Officers.*] (*a*)

POOR LAW BOARD, WHITEHALL,
19*th October*, 1853.

SIR,—I am directed by the Poor Law Board to communicate to you the new provision contained in the Act of the last session of Parliament, 16 & 17 Vict. c. 97, s. 66, regarding the quarterly visitation of pauper lunatics by the medical officer, and his report thereon.

The enactment is in the following terms:—

* * * * * *

You will remember that, by the previous statute, 8 & 9 Vict. c. 126, s. 55, the medical officer was required to visit and report once in every quarter, to make a list of all lunatics so visited, and to send three copies of that list to the persons specified in the statute, without any special fee or remuneration. No provision was made in that Act for the supply of forms to be filled up by the medical officer.

The recent enactment will be found to be much more favorable to the medical officer, inasmuch as it defines more clearly the class of pauper lunatics whom he is to visit, and the proper mode of computing the quarters wherein his visits are to be made. It diminishes the trouble of making the report, since it requires him to prepare and sign one list only instead of three, and provides that the forms which he is to fill up shall be supplied by the guardians. Lastly, a certain fee is to be paid for every such quarterly visit. At the same time, however, a pecuniary penalty is imposed upon the medical officer in case of non-compliance by him with the provisions of the enactment in question.

The clause expressly provides that "nothing in this enactment shall be taken or construed to relieve any medical officer from any obligation by this Act imposed upon him, to give notice to a relieving officer or overseer, where it appears to such medical officer that any pauper lunatic ought to be sent to an asylum." In reference to this important part of your duty, the Board wish to point out that, by section 67 of the Act, "every medical officer of a

(*a*) See Sixth Annual Report of the Poor Law Board, 1853, pp. 8–10; and Appendix, No. 14, p. 55.

parish or union who shall have knowledge that any pauper resident in such parish or in any parish within the district of such medical officer is, or is deemed to be, a lunatic and a proper person to be sent to an asylum, shall, *within three days after obtaining such knowledge*, give notice thereof, in writing, to a relieving officer of such parish, or if there be no such relieving officer, then to one of the overseers of such parish." Section 70 renders any neglect of this duty on the part of a medical officer punishable by a pecuniary penalty.

The Board will add that the restriction contained in the former Act, which prevented the medical officer of the union or parish from certifying to the insanity before the justices who might be applied to for the order to place a pauper lunatic in confinement, is now repealed.

I am, your obedient servant,
W. G. LUMLEY,
Assistant Secretary.

To the Medical Officer.

[2. *Circular Letter of Poor Law Board to Clerks to Guardians.*] (*b*)

POOR LAW BOARD, WHITEHALL,
20th October, 1853.

SIR,—I am directed by the Poor Law Board to transmit to you a copy of a letter (*c*) which the Board have addressed to every medical officer in the unions and parishes of England and Wales, upon the subject of his duties, under the new Act relating to lunatic asylums, 16 & 17 Vict. c. 97, and to request you will lay the same before the guardians at their next meeting.

The Board wish you to draw the attention of the guardians particularly to the provisions in section 66, for the payment of a fee for every quarterly visit, and for the supply of the lists in blank which are to be filled up by the medical officers. It is advisable that the guardians should procure the requisite supply for the use of the medical officers without delay, as the present quarter will be far advanced by the 1st of November, the day on which the Act comes into operation.

With reference to your own duty as clerk to the guardians, the new Act requires that, within three days after the receipt by you of the above list from the medical officer, you shall transmit *the*

(*b*) See Sixth Annual Report of the Poor Law Board, 1853, pp. 8–10; and Appendix, No. 15, p. 58.

(*c*) See the preceding letter.

same to the Commissioners in Lunacy, and a *copy thereof* (*d*) to the clerk to the visitors of the asylum for the county or borough in which the parish or union, for which you are clerk, is situate. Any failure in the performance of this duty will incur a penalty not exceeding £20 nor under £2.

I am directed to add, that you are required, by section 64, to make out the same annual list of pauper lunatics as you were required to do by section 47 of the 8 & 9 Vict. c. 126. Some slight variations will be found in the form of the list, which is now to be adapted to the case of lunatics chargeable to the common fund. A penalty of any sum not exceeding £20 is imposed upon the clerk neglecting to make out and sign such list, or to transmit copies thereof as directed by this Act.

I am, your obedient servant,

W. G. LUMLEY,
Assistant Secretary.

To the Clerk of the Guardians.

[3. *Circular Letter of Poor Law Board to Clerks to Guardians.*] (*e*)

POOR LAW BOARD, WHITEHALL,
3rd January, 1854.

SIR,—I am directed by the Poor Law Board to state, for the information of the guardians, that the Board have received a communication from the Commissioners in Lunacy to the effect that, in their opinion, it was the intention of the Legislature that the cases of pauper lunatics, who are inmates of the workhouse, should be reported upon quarterly, in the manner prescribed by the 16 & 17 Vict. c. 97, s. 66, and that the proper officer to make the report is the medical officer of the workhouse. It also appears from the Commissioners' communication that this was the practice under the Act of the 8 & 9 Vict. c. 126.

The Board concur in this opinion, and recommend the guardians immediately to supply the medical officer of the workhouse with the proper forms as prescribed by the new Act, to be filled up by him and delivered to the clerk. (*f*)

I am, your obedient servant,

W. G. LUMLEY,
Assistant Secretary.

The Clerk to the Board of Guardians.

(*d*) See note to 16 & 17 Vict. c. 97, s. 66, *ante*.

(*e*) See Sixth Annual Report of the Poor Law Board, 1853, p. 9; and 16 & 17 Vict. c. 97, s. 66, *ante*.

(*f*) See also 25 & 26 Vict. c. 111, s. 21, and schedule B, *ante*.

[4. *Circular Letter from the Commissioners in Lunacy to Clerks to Guardians, and to Overseers.*] (*g*)

OFFICE OF COMMISSIONERS IN LUNACY,
19, NEW STREET, SPRING GARDENS,
1st December, 1853.

SIR,—I am directed by the Commissioners in Lunacy to address you with reference to the quarterly visitation, and lists of pauper lunatics not in asylums, registered hospitals, or licenced houses, required by the 66th section of "The Lunatic Asylums Act, 1853."

The Commissioners desire more especially to draw your attention to the provisions of the Act respecting the time and mode of making the returns to this office.

The lists are to be prepared by the medical officers of parishes, unions, or districts, *not during* but "*within seven days after the end*" of every quarter; and the clerks to boards of guardians or overseers of parishes receiving such lists are required "*within three days after the receipt thereof*," to transmit the same to this office, and copies to the visitors of the asylum for the borough or county. It appears to the Commissioners that the most convenient course, and one substantially in compliance with the Act, will be for clerks and overseers to collect the lists, and transmit all lists received by them together to this office, within ten days after the end of every quarter, and at the same time, to state what lists, if any, are wanting, with the names or numbers of the districts, and the names of the medical officers who shall not have sent in their lists.

You are requested to communicate the substance of this letter to the several medical officers of your union or parish.

I am further instructed to request that you will furnish them, and any other medical gentlemen who may be called upon to sign certificates, in the cases of pauper lunatics belonging to your union or parish, with the accompanying paper of instructions, additional copies of which will be forwarded to you upon your application.

I am, Sir, your obedient servant,
R. W. S. LUTWIDGE,
Secretary.

(*g*) See Eighth Report of the Commissioners in Lunacy, 1854, p. 66; and 16 & 17 Vict. c. 97, s. 66, *ante*.

[*Enclosure.*]

LUNACY.—MEDICAL CERTIFICATES. INSTRUCTIONS.

Every medical certificate must be according to the subjoined form, prescribed by the "Lunatics Care and Treatment" and "Lunatic Asylums" Acts, 1853.

In filling up the certificate, the medical practitioner signing is requested especially to observe the following essential particulars, viz.—

1. After the words "being a," he is required to insert not the word "physician," "surgeon," or "apothecary," but the legal qualification, diploma, or licence, entitling him to practice as such within the United Kingdom.

The words of the interpretation clause are as follows :—"'physician,' 'surgeon,' or 'apothecary,' shall respectively mean a physician, surgeon, or apothecary, duly authorised or licenced to practise as such by or as a member of some college, university, company, or institution legally established and qualified to grant such authority or licence in some part of the United Kingdom, or having been in practice as an apothecary in England or Wales on or before the 15th day of August, 1815, and being in actual practice as a physician, surgeon, or apothecary."

2. He is required to insert, not only the date and place of examination, but also the place of residence, and profession or occupation (if any) of the patient.

3. In any case where more than one medical certificate is required by the Act, he must insert before the words "personally examined," the words "separately from any other medical practitioner."

4. He is required, in order that his certificate may have any validity in law, in every case to set forth the fact or facts, or some fact or facts, indicating insanity, *observed by himself.*

5. The certificate need not be dated on the day of examination.

Note.—Medical officers of unions or parishes are no longer prohibited from signing certificates in the cases of pauper lunatics belonging thereto.

R. W. S. LUTWIDGE,
Secretary.

Office of Commissioners in Lunacy.

[5. *Extract from the Thirteenth Report of the Commissioners in Lunacy, 31st March, 1859, pp. 74-76.*]

"We have repeatedly endeavoured to enforce the due return of the quarterly lists directed to be made by medical officers of poor law districts, as required by the Act 8 & 9 Vict. c. 126, s. 55.

"The duty, however, was in most instances totally neglected

and therefore, in order to ensure a compliance with the law, provision was made by the 'Lunatic Asylums Act, 1853,' for the remuneration of the medical officer so visiting, and reporting upon all pauper lunatics other than those in workhouses. The good effect of this provision was immediately apparent.

"To secure complete returns, we obtained from the Poor Law Board a list of all the districts comprised in the several unions of England and Wales, and we adopted a plan of registration.

"It appeared that there were nearly 4,000 districts, and to ensure regular returns from as many medical officers proved to be a difficult task. Whilst making this endeavour, two questions arose—first, as to the necessity of requiring any statement where no insane patients were resident; and, second, as to whether certain doubtful cases, such as those termed imbeciles, ought to be inserted in the list. After due deliberation we thought it advisable, that in those instances where no patients were resident in the district the fact should be communicated by making a 'nil' return; and as respects the second question, that all persons receiving parochial relief on account of mental infirmity or imbecillity, should be brought under the notice of the medical officer, visited by him, and included in his list.

"Our endeavours to obtain the due protection intended by the Legislature for the 5,000 or 6,000 idiotic and insane paupers residing with friends, and elsewhere, have invariably been seconded by the Poor Law Board. We have also frequently communicated with the clerks to the boards of guardians, who in some instances have attended to our requests; but we regret to state that in the majority of cases the assistance we might reasonably have expected has not been given.

"Our communication with clerks to boards of guardians having generally proved so unsatisfactory, we addressed a circular letter to every medical officer from whom no schedule had reached this office. Their replies showed that in many instances the return had been duly made, being often delivered personally into the hands of the clerk of the union.

"Instead of proceeding against them under the Act, we solicited the assistance of the Poor Law Board, in order to complete the returns.

"To promote as far as practicable the well-being of the pauper patients thus reported to us, we cause every return to be examined, and if it appear that any case requires further attention we address a letter to the medical officer, asking what steps have been taken to improve the condition of the patient or to promote removal to an asylum. As the state of the insane and weak-minded is seriously affected by inattention to matters which to many appear trifling and of little importance, we have not allowed any defects to pass unnoticed, and in the course of the last year we have addressed upwards of 300 letters to medical officers call-

ing for further reports on cases within their districts. Although no remuneration is made to medical gentlemen for this additional service, yet it is satisfactory to state that in nearly every instance they have willingly rendered the desired assistance, and have subsequently reported improvement of the patient or removal to an asylum.

"To some cases where the recommendations of the medical officer had not been carried out, and to others which appeared urgent, we have made special visits.

"Notwithstanding the efforts thus made by us, however, to improve the condition of the insane paupers living at home or boarded out, more attention should undoubtedly be bestowed on this class, especially in remote districts. From a memorandum made by one of the members of the Board after a visit to North Wales, it appears that many irregularities still require correction in thinly populated parts of the country, or where the great distance of the asylum forms an impediment to the transmission to it of patients. The consequence is the detention of a large proportion of patients within the limits of the union. Some of these are reported as having been visited when only casually met on the road by the medical officer, and there is reason to believe that in many cases neither the medical or relieving officer ascertain the nature of the treatment, or the provision for their accommodation, especially at night."

[6. *Circular Letter of Poor Law Board to Boards of Guardians*]. *(h)*

POOR LAW BOARD, WHITEHALL, S.W.
27th February, 1857.

SIR,—The Poor Law Board having communicated with the guardians of the unions in Wiltshire, on the unsatisfactory manner in which, according to a report of the medical superintendent of the Wilts County Lunatic Asylum, the removal of patients to and from the asylum was often performed, received from the chairman of the Alderbury Union the following suggestion on the subject, namely, that "the visitors be authorised, if they think fit, to direct that a proper vehicle or vehicles be kept for the purpose of sending home recovered paupers, living at a distance, and to appoint a trustworthy person belonging to the establishment to accompany them."

The Board have brought this suggestion under the notice of the Commissioners in Lunacy, who have informed the Board that they are now acting upon it, and are "recommending to the visiting committee of county lunatic asylums, that vehicles should be

(*h*) See Tenth Annual Report of the Poor Law Board, 1857, Appendix No. 7, p. 34, and 16 & 17 Vict. c. 97, s. 80, *ante*.

kept for the purpose of sending home recovered paupers under proper and trustworthy care, when their home is at a distance from the asylum."

I am directed by the Board to state that wherever the visiting committee adopt the recommendation of the Commissioners in Lunacy, the Board think it desirable that the guardians should require the relieving officer in removing recovered pauper lunatics to make use of the conveyance so provided, and to pay for its use as part of the expenses of the removal.

I am, Sir, your obedient Servant,

COURTENAY,

To the Clerk to the Board of Guardians. *Secretary.*

[7. *Circular Letter of Poor Law Board to Boards of Guardians.*] *(i)*

POOR LAW BOARD, WHITEHALL, S.W.
15*th December*, 1862.

SIR,—The Poor Law Board desire me to bring under the notice of the guardians certain provisions contained in "Lunacy Acts Amendment Act, 1862," 25 & 26 Vict. c. 111, which relate to pauper lunatics, and affect the guardians in the discharge of their duties.

Section 19 directs so much of the statute 16 & 17 Vict. c. 97, s. 67, as requires the relieving officer, and overseer, when there is no relieving officer, who shall have knowledge that any pauper, resident in a parish, is or is deemed to be a lunatic, *and a proper person to be sent to an asylum*, to give notice thereof to a justice of the peace, to be construed as if the words in italics had been omitted.

Henceforth it will suffice for the relieving officer, or overseer, to have knowledge that there is a pauper resident in the parish who is a lunatic; and it will not be necessary that he should have knowledge that the lunatic is a proper person to be sent to an asylum.

The same clause in the statute 16 & 17 Vict. c. 97, requires the justices to be satisfied that the lunatic is a proper person to be sent to the asylum; and this provision remains unaltered.

Section 20 of the new Act prohibits the detention in a workhouse of any lunatic, or alleged lunatic, beyond the period of fourteen days, unless in the opinion of the medical officer such person is a proper person to be kept in a workhouse, and the accommodation therein is sufficient for his reception.

(*i*) See Fifteenth Annual Report of the Poor Law Board, 1863, p. 22; and Appendix, No. 5, p. 35.

And any person detained in a workhouse in contravention of this section (that is, without such opinion, or where the accommodation is insufficient), shall be deemed to be a proper person to be sent to an asylum, within the meaning of 16 & 17 Vict. c. 97, s. 67.

The section also declares that the medical officer shall, for all the purposes of that Act, be deemed to have knowledge that a pauper resident within his district is a lunatic, and a proper person to be sent to an asylum, and that it shall be his duty to act accordingly, and further to sign such certificate, as is contained in schednle F, No. 3, to the above statute 16 & 17 Vict. c. 97.

Section 21 makes an addition to the form for the quarterly list of lunatic paupers made out by the medical officers, by providing for a return of those who may be in the workhouse, as to whom the medical officer is to certify whether the workhouse is or is not sufficient for the accommodation of the lunatics detained therein, and whether or not the lunatics detained therein are proper persons to be kept in a workhouse.

Section 25 requires that in the order of admission of a lunatic into an asylum, registered hospital, or licenced house, the name and address of one or more of the relations of such lunatic shall, wherever it is possible, be inserted, to whom notice of his death shall be sent in a prepaid letter.

The 31st section gives power to two or more Commissioners in Lunacy where upon their visitation of any workhouse it appears to them that any lunatic, or alleged lunatic therein, is not a proper person to be kept in a workhouse, to direct by an order under their hands such lunatic to be received into an asylum, and their order is to have the same effect as that of a justice under the 16 & 17 Vict. c. 97, s. 67.

An appeal to the Secretary of State for the Home Department against such order is given to the guardians, and his order shall be binding on all parties concerned.

By the 32nd section a similar power is given to such Commissioners to visit any pauper lunatic not in the workhouse, and after the same examination as is required to be made by a justice, to direct such lunatic to be received into an asylum.

According to section 33 their order may authorise the admission into any asylum other than that of the county or borough in which the parish is situate from which the lunatic is sent, and into any registered hospital or licenced house under the same circumstances, and subject to the same conditions as are provided for in statute 16 & 17 Vict. c. 97, s. 72.

Section 34 requires the superintendent of every asylum, once at the least in each half-year, to transmit to the guardians of every union and parish a statement of the condition of every pauper lunatic chargeable to such union or parish. This return will enable the guardians to determine whether they should exercise the power given to them by the statute 16 & 17 Vict. c. 97, s. 65,

of sending a physician or other medical practitioner, or a committee of themselves, to visit and examine any or all the pauper lunatics chargeable to the union in the asylum. In the event of a committee being sent, the Board recommend that only a limited number should be appointed for the purpose, so that there be no unnecessary expense incurred in the visit. Considerable discussion has arisen between the guardians and the auditors in several unions, where the latter have objected to the number of guardians sent on such visits, and the amount of the expenses incurred in their visits. The Board think that, as a general rule, a committee of three or at the most five guardians would be sufficient for the purposes of the contemplated examination.

The attention of the guardians is particularly directed to section 37, which requires the visiting committee of every union and of every parish under a board of guardians, once at the least in each quarter of a year, to enter in a book, to be provided and kept by the master of the workhouse, such observations as they may think fit to make respecting the dietary, accommodation, and treatment of the lunatics, or alleged lunatics, for the time being in the workhouse, and further requires that the book containing the observations made in pursuance of this section by the visiting guardians shall be laid by the master before the Commissioners on their next visit.

The Board recommend the board of guardians to provide this book for their workhouse as soon as they conveniently can do so.

Section 38 contains the following provisions in reference to the pauper lunatics under confinement:—

Two of the Commissioners in Lunacy, as regards any hospital or licenced house, and two of the committee of governors of any hospital, and two of the visitors of any licenced house as regards any licenced house within their jurisdiction, may permit any pauper patient therein to be absent therefrom upon trial, for such period as they may think fit, and may make, or order to be made, an allowance to him, not exceeding his charge in such hospital or house, which shall be charged for him, and be payable as if he were actually therein, but shall be paid to him or for his benefit as they may direct.

If he do not return at the expiration of the time, and a medical certificate that his detention as a lunatic is no longer necessary be not sent to the proprietor or superintendent, he may at any time within fourteen days after the expiration of the period be retaken.

This corresponds with the provision contained in the 16 & 17 Vict. c. 97, s. 79, in regard to pauper lunatics in asylums.

Section 45 contains a special provision as to the chargeability of pauper lunatics whose settlements cannot be ascertained in certain boroughs, but as its application is very limited, the Board

do not consider it necessary to enter into any detail in regard to it.

The Board will only refer to one other section. The eighth section empowers the visitors of any asylum, and the guardians of any parish or union within the district for which the asylum has been provided, if they shall see fit, to make arrangements subject to the approval of the Commissioners in Lunacy, and the President of the Poor Law Board, for the reception and care of a limited number of chronic lunatics in the workhouse of such parish or union, to be selected by the superintendent of the asylum, and certified by him to be fit and proper so to be removed.

The Board are at present not aware of any workhouse in which any such arrangements could conveniently be made; but they will be ready to consider any proposals on the subject, when the visitors and the board of guardians of any union shall find it convenient or practicable to act upon this clause. (*j*)

I am, your obedient servant,

W. G. LUMLEY,
Assistant Secretary.

To the Clerk of the Guardians.

[8. *Circular Letter of Poor Law Board to Boards of Guardians.*]

POOR LAW BOARD, WHITEHALL, S.W.
31st January, 1865.

SIR,—I am directed by the Poor Law Board to state that, in consequence of a difficulty which has been experienced by the clerks to some boards of guardians in obtaining the information necessary to enable them to prepare the Annual Return of Pauper Lunatics, required by the 16th and 17th Vict. c. 97, s. 64, the Poor Law Board have communicated with the Commissioners in Lunacy on the subject. These Commissioners have in consequence issued a circular letter to the clerks to the visitors of the various lunatic asylums, suggesting that the half-yearly statements required by the 34th section of the "Lunatic Acts Amendment Act, 1862," be made applicable to the 1st January and 1st July in each year, and that they should contain certain particulars which are not in all cases within the knowledge of the union or parish authorities.

(*j*) See 25 & 26 Vict. c. 111, s. 8, *ante;* and the subsequent Acts, 26 & 27 Vict. c. 110, s. 2, and 31 & 32 Vict. c. 122, s. 43, *ante;* and the Poor Law Board's Circular of 20th November 1868, Appendix, *post.*

The Poor Law Board enclose herewith, for the information of the guardians and yourself, a copy of the circular referred to.

I am, Sir, your obedient Servant,

W. G. LUMLEY,
Assistant Secretary.

To the Clerk to the Board of Guardians.

[*Enclosure.*] (*k*)

OFFICE OF COMMISSIONERS IN LUNACY,
19, WHITEHALL PLACE, S.W.
20th December, 1864.

SIR,—The attention of the Commissioners in Lunacy has been specially drawn to the difficulty experienced by clerks to boards of guardians, in collecting the detailed information necessary to enable them to prepare their annual returns of pauper lunatics chargeable to unions and parishes on the 1st of January, by reason of some of the particulars required, relative to patients in asylums, being obtainable only from those institutions.

With a view to remove this difficulty in the most simple and convenient way, the Commissioners have communicated with the Poor Law Board, who have expressed their concurrence in the following suggestion.

The Commissioners suggest that the half-yearly statements required by the 34th section of the "Lunacy Acts Amendment Act, 1862," to be transmitted by superintendents of asylums to Boards of guardians (or overseers), be made applicable to the 1st of January, and 1st of July, in each year, and that they should contain the following particulars, of which some are not within the knowledge of the union or parish authorities :—

1. Name of Patient.
2. Age.
3. Sex.
4. Whether "Lunatic" or "Idiot."
5. Dangerous to himself or others.
6. Of dirty habits.
7. Mental state.
8. Bodily health and condition.
9. Observations (special, if any).

I am, Sir, your obedient Servant,

W. C. SPRING RICE,
Secretary.

To Clerk to Visitors of *Asylum.*

(*k*) See Nineteenth Report of the Commissioners in Lunacy (1865), Appendix, p. 95.

[9. *Circular Letter of Poor Law Board to Boards of Guardians.*] (*l*)

POOR LAW BOARD,
GWYDYR HOUSE, WHITEHALL, S.W.,
26th November 1867.

SIR,—I am directed by the Poor Law Board to state that their attention has been called by the Commissioners in Lunacy to the practice which is said to prevail in regard to the removal of lunatic paupers in the metropolis to lunatic asylums. It is alleged that lunatics for whom an order of removal to an asylum is required are frequently taken before the magistrates sitting at the police courts in the metropolis, and after examination there are removed under the proper order to the asylum. It is stated that the investigations required in such cases are often such as are not suitable to a public court, and that the unfortunate object of the inquiry is not only exposed to public observation in a painful manner, but his malady is possibly increased, or his cure retarded, by the excitement caused by the proceeding.

The statute 16 & 17 Vict. c. 97, in sections 67 and 68, provides for the orders under which pauper and certain other lunatics are to be removed to asylums, and requires the lunatic to be brought before one, and, in some cases, before two justices, who are to issue the proper order of removal. As the lunatic is to be brought before the justice, it is customary to take him before the justice sitting at his usual official place of business, and, as regards a police magistrate in the metropolis, that is the police court. But it is provided by the statute, in both cases, that the justice may examine the lunatic at his own abode or elsewhere, and may proceed as if the person were brought before him in the manner therein previously prescribed.

It is also provided in section 67 that in case any pauper deemed to be lunatic cannot on account of his health or other cause be conveniently taken before any justice, such pauper may be examined at his own abode or elsewhere by an officiating clergyman of the parish in which he is resident, with a relieving officer or if there be no relieving officer, an overseer of the poor, and such persons may make an order for the removal to the asylum.

It is recommended by the Commissioners in Lunacy that in the metropolis one of these courses should be adopted, and that instead of the lunatic being taken to the police court endeavour should be made to arrange that the lunatic may be visited by the justice or the clergyman, and the relieving officer, at his place of abode, or elsewhere where he may be when it is sought to have him removed to the asylum.

(*l*) See Twentieth Annual Report of the Poor Law Board, p. 37 and p. 89.

The Board cannot but coincide in the views thus expressed as to the evils attending the general practice above adverted to. They believe that in some of the metropolitan parishes a different practice has prevailed, and has been found to be available without inconvenience.

They therefore have to urge upon the consideration of the guardians the propriety of endeavouring to provide that some justice, having proper jurisdiction, should attend at the place where the lunatic may be living, whether at his own place of abode or at the workhouse, to hear and investigate the case, and make the proper order of removal. Should this be found impracticable, the Board do not doubt that the magistrates sitting at police courts will, so far as may be possible, arrange that the examination may be taken in a private room.

Where a justice cannot be found conveniently to attend, the clergyman of the parish and the relieving officer may be applied to for this purpose. But the Board consider it undesirable that the latter course should be resorted to, except there be a very strong necessity.

Due care must be taken that the proper medical assistance is rendered in these cases, and that the investigation, while free from the excitement of an open court, is so conducted as that no doubts may arise as to the order having been issued after full deliberation, and with all necessary regularity.

I am, Sir, your obedient Servant,

G. SCLATER-BOOTH,

To the Clerk to the Guardians. *Secretary.*

[10. *Circular Letter of Poor Law Board to Boards of Guardians.*] (*m*)

POOR LAW BOARD, WHITEHALL, S.W.
4th February 1868.

SIR,—The Poor Law Board are desirous of bringing under the attention of the guardians some of the provisions of the Act of the last session of Parliament, termed "The Poor Law Amendment Act, 1867."

By the 1st Section the Poor Law Board has been made a permanent Board.

* * * * * * * * * * *

Section 22 applies to certain cases which not infrequently occur in workhouses, for which, however, there was previously no adequate remedy. It is now provided, that where there shall be

(*m*) See Twentieth Annual Report of the Poor Law Board, p. 105.

in any workhouse a poor person suffering from mental disease or from bodily disease of an infectious or contagious character, and the medical officer of such workhouse shall, upon examination, report in writing that such person is not in a proper state to leave the workhouse without danger to himself or others, the guardians may direct the master to detain such person therein; or if the guardians be not sitting the master may, until the next meeting of the guardians, detain him therein, and such person shall not be discharged from the workhouse until the medical officer shall, in writing, certify that such discharge may take place.

It is provided, however, that a lunatic shall not be prevented from being removed to an asylum, licenced house, or registered hospital, and that the parent or next of kin shall not be prevented from removing the pauper, after having given to the guardians such an undertaking as they shall deem satisfactory, to provide for the removal, charge, and maintenance of such person, with due care and attention while the malady continues.

This provision also applies to every district school and district asylum, and to the managers, board of management, medical officers, superintendent, or master thereof respectively.

The 23rd section provides for a matter which has caused much dissatisfaction in many unions, namely, the cost of lunatics in the county asylums which have been sent from boroughs not contributing to the county rate. This cost was charged to the common fund of the union, and although higher than in the case of lunatics sent from the county was necessarily charged upon the common fund, and paid by all the parishes without distinction. It is now provided that the visitors of the asylum shall, where the union and borough are not conterminous, make out two accounts, one of which shall be limited to the charge made in the case of county lunatic paupers, and shall be transmitted to the guardians for payment; and the other which shall contain the extra charge, shall be transmitted to the town council, to be paid by them.

* * * * * * * * * * *

The question of jurisdiction in the case of unions, which extend into several counties or separate jurisdictions, is settled by section 27, which enacts that where a union extends into several distinct jurisdictions every matter, act, charge, or complaint by which the guardians thereof are affected, or in which they have any interest, shall, for the purpose of jurisdiction, be deemed to arise or exist equally throughout the union.

I am Sir, your obedient Servant,

W. G. LUMLEY,

Assistant Secretary.

The Clerk to the Guardians.

[11. *Circular Letter of Poor Law Board to Boards of Guardians.*] (*n*)

POOR LAW BOARD, WHITEHALL, S.W.,
20th November, 1868.

SIR,—I am directed by the Poor Law Board to address this third and last communication to the guardians upon the subject of the Poor Law Amendment Act of 1868.

* * * * * * * * * * *

Section 13 provides for cases of certain idiotic, imbecile, and insane paupers. It enables the guardians, with the consent of the Poor Law Board, to send an idiot pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription,—

And, with the like consent, to send any idiot, imbecile, or insane pauper, who may lawfully be detained in a workhouse, to the workhouse of any other union or parish, with the consent of the guardians of such last-mentioned union or parish,—

And to pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom, and the expenses of his burial, when necessary.

The section applies, as will be seen, only to the class of harmless idiots and such insane paupers as may be lawfully kept in workhouses, and will only take effect where there is a county asylum or public establishment provided for this particular class, or where there is a workhouse adequately supplied with proper accommodation for them, and possessing a superabundance of space beyond what is required by the guardians for their own paupers.

Section 43 also deals with pauper lunatics. It enables the guardians of any union or parish, with the consent of this Board and the Commissioners in Lunacy, and subject to such regulations as they shall respectively prescribe, to receive into the workhouse any chronic lunatic, not dangerous, who may have been removed to a lunatic asylum and selected by the superintendent of the asylum, and certified by him to be fit to be so removed, upon such terms as may be agreed upon between the guardians and the committee of visitors of any such asylum,—

And thereupon every such lunatic, so long as he shall remain in such workhouse, shall continue a patient on the books of the asylum, for and in respect of all the provisions of the Lunacy Acts so far as they relate to lunatics removed to asylums.

This enables the guardians of any union or parish to receive not only their own harmless lunatics from the asylum, but those of

(*n*) See Twenty-first Annual Report of the Poor Law Board, p. 62.

other unions or parishes, and, all the provisions applicable to such lunatics being preserved, the workhouse will be rendered in effect an asylum for those who may be thus removed. The guardians must however observe, that nothing can be done in pursuance of this provision without the previous consent of this Board and the Lunacy Commissioners, and, therefore, whenever it is proposed to act upon this section, a communication should be forthwith made to this Board, and to those Commissioners.

Section 14 removes a doubt which had arisen, as to the construction of the 23rd section of the 30 & 31 Vict. c. 106, relating to pauper lunatics sent from boroughs to asylums, and gives the section a retrospective operation.

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I am, Sir, your obedient servant,

W. G. LUMLEY,

Assistant Secretary.

To the Clerk to the Guardians.

[12. *Circular Letter of Poor Law Board to Boards of Guardians.*] (*o*)

INSANE INMATES OF WORKHOUSES.—BATHS.

POOR LAW BOARD, WHITEHALL, S.W.,
21st March, 1870.

SIR,—I am directed by the Poor Law Board to state that their attention has been specially directed by the Commissioners in Lunacy to the subject of the arrangements in workhouses for bathing idiots or persons of unsound mind.

Several instances having occurred of insane paupers being placed in baths without due attention to the rules and conditions which ought to be observed, the Commissioners in Lunacy have expressed their desire to the Poor Law Board that some definite system should be adopted for the future, and they consider it important that fixed rules for the guidance of workhouse officers in giving baths to insane persons, either in wards, set apart entirely for that class, or in which they are mixed with the ordinary inmates, should be laid down.

Regulations, of which a copy is annexed, have accordingly been framed by the Commissioners in Lunacy for this object, and in bringing them under the notice of the guardians, I am directed to request that they may receive their careful consideration with the view to their adoption, so far as the circumstances and arrangements of the workhouse will permit.

The attention of the Board has also been drawn to the practice

(*o*) See Twenty-third Annual Report of the Poor Law Board, Appendix, p. 3.

of removing female lunaties from workhouses to asylums without any eompanion of their own sex. The Board request that the guardians will take the neeessary steps for ensuring that a female may aecompany the female lunaties on their removal to an asylum.

I am, Sir, your obedient servant,

H. FLEMING,

Secretary.

To the Clerk to the Guardians of the Union.

BATHS.—REGULATIONS FOR THE GUIDANCE OF THE ATTENDANTS.

1. Every patient to be bathed immediately after admission, and onee a week afterwards, unless exempted by medieal order. Should there be the slightest doubt as to the advisability of bathing any patient owing to siekness, feebleness, or exeitement, immediate reference to be made to the medieal offieer.

2. The name of every patient not having the eustomary bath to be reported to the medieal offieer.

3. In preparing a bath, the eold water is always to be turned on first.

4. Before the patient enters the bath, the temperature is to be aseertained by the thermometer, and is not to be less than 88 degrees, nor above 98 degrees. In ease of the thermometer beeoming inefficient from injury, ete., all bathing operations to be suspended until another be obtained.

5. Not more than one patient to be bathed in the same water.

6. Under no eircumstanees whatever are two patients to oeeupy the bath at the same time.

7. During the employment of the bath the room is never to be left without an attendant. At all other times the door is to remain locked, and the floor to be kept dry.

8. Under no pretenee whatever is the patient's head to be put under water.

9. In the bath the body of eaeh patient is to be well eleansed with soap. After eoming out of the bath espeeial eare must be taken to dry those patients who are feeble and helpless, and to elothe them as rapidly as possible.

10. The keys are never to remain on the bath taps, nor are they to be employed by patients. When not in use they are to be locked in the attendants' room.

11. Any marks, bruises, wounds, sores, local pain, evidenees of disease of any kind, eomplained of by the patients or notieed by the attendant during any of the bathing operations, to be immediately reported to the medieal offieer.

12. Any deficieney in the supply of warm water, soap, towels, ete., to be reported to the medical offieer.

13. The attendants are to bear in mind that, exeept under

medical order, the baths are to be employed solely for the purposes of cleanliness.

14. Neither the cold nor the shower bath is ever to be employed, except under medical order, and then only in presence of one of the officers. When not in use the door of the latter is to remain locked, and the key to be kept in the attendants' room.

15. It is the duty of the head attendant to be present at all baths employed under medical order, and to take care that the duration does not exceed the time specified in such order. He is also to supervise the whole of the ordinary bathing operations, to ascertain that the rules are rigidly carried out, and to report to the medical superintendent every infringement that may come to his knowledge.

[13. *Circular Letter of Local Government Board to Boards of Guardians.*] (*p*)

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
10th August, 1872.

SIR,—The Local Government Board are informed by the Commissioners in Lunacy that in the course of their periodical visits to workhouses they have had occasion to notice that the provision in section 20 of the Lunacy Amendment Act, 1862, 25 & 26 Vict. c. 111, so far as it imposes a duty on the medical officer, is very imperfectly observed.

The former part of that section is as follows:—"No person shall be detained in any workhouse, being a lunatic or alleged lunatic, beyond the period of fourteen days, unless, in the opinion given in writing of the medical officer of the union or parish to which the workhouse belongs, such person is a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse is sufficient for his reception; and any person detained in a workhouse in contravention of this section, shall be deemed to be a proper person to be sent to an asylum within the meaning of section 67 of the Lunacy Act, c. 97." (See 16 & 17 Vict. c. 97.)

In order, therefore, to justify the detention in a workhouse, beyond the above-mentioned period of fourteen days, of any lunatic or alleged lunatic, it is in strictness necessary that the medical officer of the workhouse should certify in writing that such person may properly be kept there. The statute, it will be seen, imposes the further condition, that the accommodation in the workhouse

(*p*) See Second Annual Report of the Local Government Board, p. xx, and Appendix, p. 19; and Twenty-seventh Report of the Commissioners in Lunacy (1873), p. 68.

shall be sufficient for the reception of the lunatic or person of unsound mind.

In the event of this important provision having been overlooked in your union, I am directed by the Board to request that the guardians will at once call the attention of the medical officer to the omission, in order that the law in this respect may be strictly complied with in future.

The certificates given from time to time by the medical officer should be preserved by the master of the workhouse and laid before the Visiting Commissioner in Lunacy, with the book or list of insane inmates required to be kept by section 37 of the Act 25 & 26 Vict. c. 111, above referred to.

I am, Sir, your obedient servant,

H. FLEMING,
Secretary.

To the Clerk to the Guardians.

[14. *Circular Letter of Local Government Board to Medical Officers of Workhouses.*]

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
21*st April*, 1873.

SIR,—I am directed by the Local Government Board, to forward herewith for your information, a copy of a circular letter which they issued on the 10th August last, to the guardians of the several unions in England and Wales, relative to the provision in section 20 of the Statute 25 & 26 Vict., cap. 111, which imposes a duty on the medical officer of a workhouse to give a certificate n writing that a lunatic or alleged lunatic may properly be kept in the workhouse beyond the period of fourteen days.

I am, Sir, your obedient Servant,

H. FLEMING,
Secretary.

To the Medical Officer of the Workhouse.

[*Enclosure.*] (*See preceding Letter, No.* 13.)

[15. *Circular Letter of Local Government Board to Boards of Guardians.*]

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
26*th April*, 1875.

SIR,—I am directed by the Local Government Board, with reference to the grant made by Parliament in aid of the cost of

the maintenance of pauper lunatics in county and borough asylums and licenced houses, to enclose six copies of the form to be used in making application for the amount which the guardians will be entitled to claim in respect of such lunatics.

The guardians will bear in mind that in those cases in which a contribution in aid of the maintenance of a pauper lunatic is recovered or recoverable by them from the relatives, or from any other source than the Parliamentary grant, no repayment is to be claimed unless the net charge on the rates equals or exceeds the sum of 4s. per week, and that no claim is to be made in respect of fractional parts of a week.

The Board think it right again to impress upon the guardians that the arrangement for repayment under the grant is not intended in any way to relieve them from the duty of enforcing payment by the relatives of lunatics of the cost of their maintenance, when the relatives are in a position to repay the same or contribute thereto; and if it should appear that in any case the guardians have failed to take proper measures for the recovery of such contributions, the Board will have to consider whether all repayment from the grant should not be withheld from that union.

The Board direct me to point out that the forms now sent are for the half-year, and that the payments will be made annually after Michaelmas.

The return, duly signed, should be forwarded in duplicate to the Board, one being required for transmission to the Commissioners for auditing the public accounts.

I am, Sir, your obedient Servant,

JOHN LAMBERT,
Secretary.

To the Clerk to the Guardians.

[16. *Circular Letter of Local Government Board to County Treasurers.*]

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
26th April, 1875.

SIR,—I am directed by the Local Government Board, with reference to the grant made by Parliament in aid of the cost of the maintenance of pauper lunatics in county and borough asylums and licenced houses, to enclose three forms, to be used in making application to the Board for the amount which the county will be entitled to claim in respect of such lunatics.

The Board direct me to remind you that it will be necessary, in order to enable the county to participate in the grant in question, that the claim which they may have to make should be submitted to one of the district auditors of the Board, for his examination and certificate that it is correct, before it is forwarded to this office; and the Board request that you will accordingly commu-

nicate with the auditor within whose district the county or the greater part of it is situate, so that arrangements may be made for so submitting the claim of the county to him, at some convenient place to be appointed for that purpose.

I am, Sir, your obedient Servant,
JOHN LAMBERT,
Secretary.

To the Treasurer of the County.

[17. *Circular Letter of Local Government Board to Town Clerks.*]

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
26th April, 1875.

SIR,—I am directed by the Local Government Board, with reference to the grant made by Parliament in aid of the cost of the maintenance of pauper lunatics in county and borough asylums and licenced houses, to enclose three forms, to be used in making application to the Board for the amount which the borough will be entitled to claim in respect of such lunatics.

The Board direct me to remind you that it will be necessary, in order to enable the borough to participate in the grant in question, that the claim which they may have to make should be submitted to one of the district auditors of the Board, for his examination and certificate that it is correct, before it is forwarded to this office; and the Board request that you will accordingly communicate with the auditor within whose district the borough is situate on the subject, so that arrangements may be made for so submitting the claim of the borough to him, at some convenient place to be appointed for that purpose.

I am, Sir, your obedient Servant,
JOHN LAMBERT,
Secretary.

To the Town Clerk.

[18. *Circular Letter of Local Government Board to District Auditors.*]

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.
26th April, 1875.

SIR,—I am directed by the Local Government Board to forward to you, herewith, a copy of a letter, and of its enclosure, which they have addressed to the clerks to the guardians of unions and parishes, respecting the repayment, out of the grant voted by Parliament in aid of the cost of the maintenance of pauper lunaties in county and borough asylums and licenced houses, of the amount which the guardians will be entitled to claim in respect of such lunaties.

The Board request that, when the returns are presented for your examination and signature, you will be careful in seeing that no claim is inserted in them for fractional parts of a week, or for any lunatic in respect of whose maintenance the net charge upon the rates does not equal or exceed the sum of four shillings per week.

I am, Sir, your obedient Servant,
JOHN LAMBERT,
Secretary.

To the District Auditor.

[19. *Extract from the Thirtieth Report of the Commissioners in Lunacy, 31st March, 1876, p. 78.*]

"The Act of 1862 (*a*) made particular provision as to the way in which letters written by private patients under care and treatment are to be dealt with. It is very rarely that we have had occasion to suspect that such letters addressed to ourselves have been detained contrary to law; but a few instances have occurred where other letters not so addressed have been forwarded to the person who signed the order of reception, instead of being laid before ourselves or the visitors on the next visit, as the statute directs. In March last we sent to every hospital and licenced house a circular on this subject, which will be found in the Appendix (O), accompanied by a letter to the superintendent, desiring stricter compliance with the Act, if such had in any case not been his invariable practice."

Appendix (O) *referred to in the above extract:—*

"OFFICE OF COMMISSIONERS IN LUNACY,
19, WHITEHALL-PLACE, S.W., *1st March*, 1875.

"*To Proprietors of Licenced Houses and others engaged in the care of the Insane.*

"The Commissioners in Lunacy, having reason to suppose that the requirements of section 40 of the Act 25 & 26 Vict. c. 111, (*a*) regulating the transmission of the correspondence of private patients in asylums, hospitals, and licenced houses, and of single patients, are not always carefully observed, desire to call your attention to the language of the section, of which a copy is subjoined.

"It will be remarked that no power is given to the person signing the order of reception, or to any other person (save the Commissioners, or committee,* or visitors), to sanction restrictions on the correspondence of a private patient; and it follows that no instructions received from any other person other than the com-

(*a*) See 25 & 26 Vict. c. 111, s. 40, *ante*, and the notes thereon.

missioners, committee, or visitors could be pleaded as a justification of any alleged breach of the provisions of the section.

"It is often desirable, for the patient's own sake, to place some check on his correspondence. Where this is done, however, the greatest care should (on every account) be taken strictly to follow the directions of the Act.—By order,

"C. S. PERCEVAL, *Secretary*.

"* From the context, it would appear that this word denotes the committee of visitors of an asylum, or the committee of management of an hospital, and not a committee of the person or estate of a lunatic." (*b*)

(*b*) See note (*t*) to s. 40 of 25 & 26 Vict. c. 111, *ante*.

CHAPTER III.

Criminal Lunatics, and Insane Prisoners.

Criminal Lunatics.]—It is not within the scope of the present work to enter into the question of the legal responsibility of persons of unsound mind. The legal doctrine upon this subject, with regard to criminal acts, is stated in the answers given by the Judges to the questions proposed to them by the House of Lords, in McNaughten's case (8 Scott, N. R. 600; 1 C. & K. 130 n.; 10 Cl. & Fin. 200). Although the expression "Criminal Lunatic" has been objected to as involving a contradiction in terms, it does not always do so in fact; as, under some circumstances, a lunatic is regarded by the law as a criminal, and dealt with accordingly. Thus, in the answer to the fourth of the questions above referred to, the Judges state that, if a person labours under a partial delusion only, and is not in other respects insane, he is in the same situation as to responsibility "as if the facts with respect to which the delusion exists were real." Referring to a supposed case of murder by such a person, they add:—"If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment." In other words, although he is a lunatic, acting under the influence of an insane delusion, he is, nevertheless, also a criminal. In general usage, however, the term "Criminal Lunatic" is not confined to the cases of lunatics whom the law regards as criminals, but applies to all cases of insane persons who commit

acts which would be criminal, if the agent were sane.

Lunatics about to commit a Crime.]—There is a further class of cases closely connected with those above-mentioned, but yet sufficiently distinct to require a separate provision; namely, the cases of insane persons who contemplate the commission of criminal acts, which they are prevented by timely interposition from accomplishing. The Act passed in 1800 (39 and 40 Geo. III. c. 94) enacted that, where any person was discovered and apprehended under circumstances denoting a derangement of mind and a purpose of committing some crime for which, if committed, he would be liable to be indicted, he might be sent to prison, and could not then be bailed except by the authorities specified in the Act (s. 3); but this enactment was repealed by the 1 & 2 Vict. c. 14 (passed in 1838), which provides that any such person so apprehended may be sent by two justices, acting with the advice of a medical man, to the county asylum, if there be one, and if not to some hospital or licenced house, to be there maintained at the charge of the parish of his settlement, or if such parish cannot be ascertained, at the charge of the county or borough where he was apprehended. (*a*)

Offenders becoming Insane.]—In addition to those "Criminal Lunatics" who commit criminal acts in a state of insanity, whether total or partial, there are the cases of criminals becoming subsequently insane. With regard to these, Blackstone (Comm. book iv. chap. ii.) points out that if a man who in his sound mind has committed an offense, becomes mad before arraignment, he ought not to be arraigned; if after he has pleaded, and before trial, he ought not to be tried; if after trial, and a verdict of guilty, but before judg-

(*a*) *Reg.* v. *Elsley*, 15 Q. B. 1025. See also the provisions of 16 & 17 Vict. c. 97, s. 68, *ante*, as to lunatics wandering at large, or not under proper control.

ment, judgment ought not to be pronounced; and if after judgment, execution ought to be stayed. (*b*) The Act passed in 1800, in consequence of Hadfield's case, (*c*) (39 & 40 Geo. III. c. 94,) requires that, if a person charged with treason, murder, or felony [or any misdemeanor, see 3 & 4 Vict. c. 54, s. 3] be acquitted on the ground that he was insane at the time of committing the offense, the jury shall find specially to that effect; and in any such case, and also where a person indicted for any offense, or brought up to be discharged for want of prosecution, is found to be insane, either by the jury charged with the indictment or by a jury impanneled for the purpose, the court is empowered to direct his confinement, until the Queen shall give order for his safe custody, during her pleasure, in such place and in such manner as to Her Majesty may seem fit. (*d*)

(*b*) See also 1 Hale P. C. 34; and Russell on Crimes, vol. i. book 1, chap. 1, where the cases are collected. See also *Reg.* v. *Barton*, 3 Cox C.C. 275; *Reg.* v. *Frances*, 4 Cox C.C. 57; *Reg.* v. *Layton*, 4 Cox C.C. 149; *Reg.* v. *Higginson*, 1 C. & K. 129.

(*c*) The trial of Hadfield (27 State Trials, 1281) having taken place on 26th June, 1800, the Bill was introduced by the Attorney-General on 30th June, and received the Royal Assent on 28th July. Hadfield died in Bethlehem in 1849. (See "Suggestions for the future Provision of Criminal Lunatics," by Dr. Hood, London, 1854, p. 15.)

(*d*) As to cases under the statute, see *R.* v. *Pritchard*, 7 C. & P. 303; *R.* v. *Dyson*, 7 C. & P. 305, n.; 1 Lewin 64; *Reg.* v. *Hodges*, 8 C. & P. 195; *Reg.* v. *Pearce*, 9 C. & P. 667—also in *re* Pearce, *ex parte* Clark, 8 Jur. 89; *Reg.* v. *Goode*, 7 A. & E. 536. See also the case of Wild, discussed in the House of Commons; Hansard (1830), vol. xxii. p. 734. The following is the form of the Royal Warrant:—

"Whereas was indicted for and being found by a jury duly taken in that behalf to be insane, the Court in pursuance of the Act of Parliament made and passed in the 39th and 40th years of the reign of King George the Third, did order the said to be kept in strict custody until Our pleasure should be known. And whereas humble suit hath been made unto us to be graciously pleased to order the said to be removed from the gaol of . We taking the premises into Our Royal consideration, do, by virtue of the before mentioned Act, hereby signify Our pleasure, that you do receive the said from the said gaol, and keep him in custody in the Lunatic

Other Insane Prisoners.]—Besides insane offenders, and offenders becoming insane, there may be other prisoners, or persons in legal custody (whether imprisoned in reference to criminal proceedings, or under civil process, or otherwise) who may become, or may be found to be, insane; and special provisions are made with respect to them (see 6 & 7 Vict. c. 26, s. 21; 25 & 26 Vict. c. 104, s. 5; 29 & 30 Vict. c. 109, ss. 68, 80).

Removal to Asylum—Maintenance.]—The Act of 1800, above mentioned (39 & 40 Geo. III., c. 94), whilst it empowered the Sovereign to give orders for the safe custody of criminals found to be insane, contained no provision for defraying the expense of their care and maintenance, where they had not sufficient property of their own. The result appears to have been that many such persons continued to be kept in the county jails and houses of correction, instead of being placed in more suitable establishments; and this led to a parliamentary investigation. In 1807, a select committee of the House of Commons was appointed to inquire into the state of the criminal and pauper lunatics in England and Wales; and they made a report, suggesting certain alterations of the law as regards the criminal lunatics, and recommending the establishment of a central asylum. The following is an extract from that report (15th July, 1807, Session Papers, No. 39) :—"It therefore appears to be highly desirable that a building should be erected for the separate confinement of all persons detained under the above-mentioned Act (39 & 40 Geo. III. c. 94) for offenses committed during a state of insanity;

Asylum, until Our further pleasure be known. And for so doing this shall be your warrant.

"Given at Our Court of St. James's the day of , in the year of Our Reign.

To our trusty and well-beloved, The and all others it may concern. } By Her Majesty's Command."

and that provisions should be enacted similar to those of 17 Geo. II. c. 5, s. 20, directing the magistrates of the county where the trial has been had, in all cases where it shall not appear to them that the lunatic has sufficient property to defray the expenses of his own maintenance, to inquire into the place of his last legal settlement, and to make an order upon such parish, or if that cannot be ascertained, upon the county where he has been tried, to allow such weekly sum for his maintenance as shall from time to time be fixed by the Secretary of State for the Home Department, or such persons as His Majesty shall appoint to superintend such place of confinement. As one establishment of this nature will be sufficient for the whole kingdom, it may be expedient that it should be in or near the metropolis, and that power should be given to the Secretary of State to make such regulations as may not only provide for the due care and management of the persons there confined, but may also ensure a full examination by competent judges into the state of mind of any person who may appear to be cured previous to his being allowed his discharge." This was followed in the ensuing year by an address to his Majesty, for the erection of a building for criminal lunatics (20th June, 1808; Session Papers, No. 39); and after some communications in 1814 (Session Papers, 1814, No. 233), arrangements were made in 1816 for the erection, at the charge of the Government, of a separate prison in connexion with Bethlehem Hospital, for the reception of sixty criminal lunatics, to be maintained at the charge of the Government, but under the care of the Governors of the Hospital (Session Papers, No. 443; 11th June, 1816).

Meanwhile an Act which was passed on 23rd June, 1808 (48 Geo. III. c. 96, s. 27), made provision for charging the maintenance of any lunatic kept in custody under 39 & 40 Geo. III. c. 94, either on his own property, or (if that were insufficient) on the parish of

his settlement, or (if that could not be ascertained) on the county; and another Act, passed on 1st July, 1816 (56 Geo. III. c. 117), directed that offenders becoming insane after conviction should be removed to a lunatic asylum, though it made no provision for the charge of their maintenance there. Both these Acts were repealed in 1828 by 9 Geo. IV. c. 40, (*e*) which made other provisions on the subject, in ss. 54 and 55. These two sections were themselves repealed in 1840 by 3 & 4 Vict. c. 54. (*f*) This last-mentioned Act is referred to in the Seventh Annual Report of the Poor Law Commissioners (pp. 53, 54) as follows :—

"The 3 & 4 Vict. c. 54, was passed to make further provision for the confinement and maintenance of insane prisoners, and its provisions more particularly apply to the remedy of certain defects in the former state of the law relative to such prisoners. The confinement of a person insane at the time of his apprehension and committal to prison, or becoming insane during the period of his imprisonment, until he becomes sane, in some asylum, is authorised by it. There is a clause in the Act which authorises the justices of the peace of the place where the prisoner is confined to inquire into the settlement of such prisoner, and his pecuniary circumstances; and where it shall not appear that he is possessed of means sufficient to provide for his maintenance, then to make an order upon the overseers of his parish to pay the reasonable charges for inquiring into such person's insanity, for the conveyance to the asylum, and a certain weekly sum for maintenance. (*g*) When the place of settlement cannot be ascertained, the order must be made on the

(*e*) The 48 Geo. III. c. 96, entitled "An Act for the better care and maintenance of lunaties, being paupers or criminals, in England," was amended by 51 Geo. III. c. 79, 55 Geo. III. c. 46, 56 Geo. III. c. 117, 59 Geo. III. c. 127, and 5 Geo. IV. c. 71; and all these Acts, together with 17 Geo. II. c. 5, ss. 20, 21, were repealed by 9 Geo. IV. c. 40—which, moreover, was itself entirely repealed in 1845 by 8 & 9 Vict. c. 126. (See Introduction, chapter II., *ante*, p. 296.)

(*f*) This Act, passed on 4th August, 1840, was occasioned by the case of Oxford, who was tried on 9th July (9 C. & P. 525; 1 R. C. & M. 16).

(*g*) *Reg.* v. *Justices of Berkshire*, 3 N. S. C. 473.

treasurer of the county. If the person is possessed of property, such property is to be applied towards the maintenance of such prisoner, and the justices may make an order upon the overseers of the place where it happens to be, to seize the same or so much as may be necessary to defray the above charges, who are to account for the same to the justices of the place where the order was made, at their next special sessions. An appeal is allowed to the overseers of the parish, and where the parish is in union, or under guardians, to the guardians of the union or parish, or the overseers of the parish, against the order of settlement, to which the clerk of the peace shall be the respondent. The 9 Geo. IV. c. 40, s. 54, contained a power similar to that in the present Act applicable to insane persons confined by order of any court or by the King's order; but although it was enacted that the property of a prisoner, if sufficient for his maintenance, should be applied thereto, no provision was made to enable it to be reached."

The 3 & 4 Vict. c. 54, received important modification, in consequence of the proceedings which occurred in the case of Townley, who, having been tried at Derby, on 12th December, 1863, for the murder of Miss Goodwin, and convicted, was certified to be insane, whilst in jail under sentence of death, on 27th December, by certain justices of the peace for the borough of Derby, and on 29th December, by certain justices of the peace for the county of Derby, together with two medical men—such certificates having been obtained at the instance of the prisoner's attorney; and who was afterwards (viz., 28th January, 1864) reported by special commissioners to be of sound mind (see Correspondence ordered by the House of Commons to be printed, 11th February, 1864; Sess. Papers, No. 37). By the Act which was passed on 23rd June, 1864 (27 & 28 Vict. c. 29), the first section of 3 & 4 Vict. c. 54, is repealed, and other provisions are made, enabling the Secretary of State to remove insane prisoners, confined under any other than civil process, from prison to a lunatic asylum, under certain circumstances and conditions. The following was the

form of the Secretary of State's Warrant, under 3 & 4 Vict. c. 54, s. 1:—

"Whereas by an Act passed in the 3rd and 4th years of the reign of Her present Majesty, intituled, &c. And whereas it has been certified to me, under the hands of and , two justices of the peace, and the hands of , and , being persons authorised as aforesaid, that , who was at on convicted of , and had sentence of passed upon him for the same, and who is now confined in the gaol for the said county, has become insane; and whereas the Criminal Lunatic Asylum in St. George's Fields, in the county of Surrey, has been recommended to me as a fit and proper receptacle for the said lunatic: I do hereby, in pursuance of the Act of Parliament above recited, authorise and direct you to cause the said to be removed from the said gaol to the said lunatic asylum, there to remain until further order shall be made herein, and for so doing this shall be your warrant. Given at Whitehall, etc.

"To the High Sheriff of the county of , and to all others whom it may concern."

The warrant to the Governors of Bethlehem Hospital (*i.e.* the Asylum in St. George's Fields), containing the same recitals, concluded as follows:—

"I do hereby, in pursuance of the Act of Parliament above recited, authorise and direct you to cause the said to be received from the said gaol into the said lunatic asylum, there to remain until further order shall be made herein, and for so doing this shall be your warrant."

For the form of an order of the Secretary of State for the removal of an insane prisoner to a county asylum or licenced house, see the report of the case of *Bradford Union* v. *Cler. Pac. Wilts*, referred to in the notes to section 2 of 3 & 4 Vict. c. 54, *post*.

The Act 27 & 28 Vict. c. 29, s. 5, moreover, transferred the charge of the maintenance of insane prisoners and criminal lunatics from the parish of the settlement to the common fund of the union, in the case of unions formed under 4 & 5 Wm. IV. c. 76.

Property.]—The property of criminal lunatics may be applied towards their maintenance under order of justices (3 & 4 Vict. c. 54, ss. 2, 3, *post*); and the Lord Chancellor is empowered, in the case of any person indicted and acquitted on the ground of insanity, to order the application of his property for his maintenance or benefit, or that of his family, or for carrying on his trade or business (25 & 26 Vict. c. 86, s. 15, *ante*).

Criminal Lunatic Asylum.]—The 3 & 4 Vict. c. 54, did, and the 27 & 28 Vict. c. 29, does, empower the Secretary of State to remove the insane prisoners to such county lunatic asylum or other proper receptacle for insane persons as he may judge proper and appoint; and with reference to 39 & 40 Geo. III. c. 94, and 3 & 4 Vict. c. 54, the Metropolitan Commissioners in Lunacy, in their general report of 1844 (p. 196), stated as follows:—"It has been assumed in practice that the Acts above cited are compulsory upon the visitors of county asylums, and that they cannot refuse to receive persons committed under royal warrant."(*h*) The accommodation for criminal lunatics in Bethlehem, originally limited to sixty (*ante*, p. 571), has been nearly doubled; and in 1849 an agreement was entered into with the proprietor of Fisherton House, near Salisbury, for the erection of a detached ward for the same class (see Fourth Report of the Commissioners in Lunacy, 1849, p. 12; and Sixteenth Report, 1862, p. 42). It was nevertheless deemed advisable to erect a central asylum for criminal lunatics (see the remarks on this subject in the several Reports of the Commissioners in Lunacy); and such an asylum has accordingly been established at Broadmoor, near Wokingham, Berks, which is subject to the special provisions of the statute, 23 & 24 Vict. c. 75, passed in 1860.

(*h*) It may be a question how far any similar obligation rests on the keeper of a licenced house. See *Bradford Union* v. *Cler. Pac. Wills*, referred to in the notes on 3 & 4 Vict. c. 54, s. 2, *post*.

This asylum was opened in 1863 (see Eighteenth Report of the Commissioners in Lunacy, 1864, p. 49); and on 23rd October, 1875, when visited by the Commissioners in Lunacy, contained the following number of lunatics:—

	Males.	Females.	Total.
Certified to be insane whilst awaiting trial	30	7	37
Found insane on arraignment ...	69	24	93
Acquitted on the ground of insanity	192	52	244
Reprieved on the ground of insanity	6	1	7
Certified to be insane whilst undergoing sentences of penal servitude	94	26	120
	391	110	501

(See Thirtieth Report of the Commissioners in Lunacy, 1876, p. 313.)

Visitation.]—The State Asylum is to be visited by the Commissioners in Lunacy, who are to report thereon, annually, to the Secretary of State, and their report is to be laid before Parliament (23 & 24 Vict. c. 75, ss. 14, 15). It is also the duty of the Commissioners to visit all gaols in which there are lunatics (8 & 9 Vict. c. 100, s. 110; 25 & 26 Vict. c. 111, s. 30); and special visits and inquiries may be made under the direction of the Home Secretary, or of the Lord Chancellor, as to any jail in which any lunatic is confined, and also "in the case of any person confined as a State lunatic, or as a lunatic under the order of a criminal court of justice." (8 & 9 Vict. c. 100, ss. 112, 113; 16 & 17 Vict. c. 96, ss. 33, 34.)

Discharge or Removal.]—The power of directing the removal or discharge, absolute or conditional, as well as temporary absence, on trial or otherwise, from the asylum, rests with the Secretary of State (8 & 9 Vict. c. 100, s. 81; 16 & 17 Vict. c. 96, s. 38; 6 & 7 Vict. c. 26, s. 21; 23 & 24 Vict. c. 75, ss. 7–9; 27 & 28 Vict. c. 29, s. 1; and 30 & 31 Vict. c. 12).

Lunatics from India.]—Provision is made by the Act 14 & 15 Vict. c. 81 (ss. 1, 2, *post*), for the removal

from India to the United Kingdom of any person indicted for or charged with any crime or offense, and acquitted or not tried, on the ground of his being found to be of unsound mind; such person, on arriving in the United Kingdom, to be dealt with according to the provisions of the Act 39 & 40 Geo. III. c. 94 (*post*). The expenses are to be defrayed by the Government of India; but may be recovered, as a debt, from the lunatic's estate (ss. 3, 4, *post*).

III. Statutes relating to Criminal Lunatics, (*a*) and Insane Prisoners. (*a*)

		PAGE
39 & 40 Geo. iii. c. 94	28 July 1800	579
1 & 2 Vict. c. 14	30 Mar. 1838	583
3 & 4 Vict. c. 54	4 Aug. 1840	587
6 & 7 Vict. c. 26, s. 21	27 June 1843	596
8 & 9 Vict. c. 100	4 Aug. 1845	182
s. 81	,,	229
s. 110	,,	248
s. 112	,,	249
s. 113	,,	250
14 & 15 Vict. c. 81 (India)	7 Aug. 1851	597
16 & 17 Vict. c. 96	20 Aug. 1853	264
s. 33	,,	282
s. 34	,,	283
s. 38	,,	284
16 & 17 Vict. c. 97, s. 133	20 Aug. 1853	451
23 & 24 Vict. c. 75	6 Aug. 1860	602
25 & 26 Vict. c. 86, s. 15	7 Aug. 1862	173
25 & 26 Vict. c. 104, s. 5	7 Aug. 1862	611
25 & 26 Vict. c. 111, s. 30	7 Aug. 1862	497
27 & 28 Vict. c. 29	23 June 1864	612
29 & 30 Vict. c. 109, ss. 68, 80	10 Aug. 1866	617
30 & 31 Vict. c. 12	12 Apr. 1867	618
32 & 33 Vict. c. 78	9 Aug. 1869	622

(*a*) See Introduction, chapter III., *ante*, pp. 567–577.

39 & 40 GEO. III. c. 94.

An Act for the safe Custody of Insane Persons charged with Offences.

[28th *July*, 1800.

Preamble.—The Jury, in case of any Person charged with Treason, etc., proving to be Insane, to declare whether he was acquitted by them on account of Insanity, and the Court shall order him to be kept in custody till His Majesty's pleasure be known, etc.

WHEREAS persons charged with high treason, murder, or felony, may have been or may be of unsound mind at the time of committing the offence wherewith they may have been or shall be charged, and by reason of such insanity may have been or may be found not guilty of such offence, and it may be dangerous to permit persons so acquitted to go at large: be it therefore enacted, by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in all cases where it shall be given in evidence upon the trial of any person charged with treason, murder, or felony, (*b*) that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing such offence, the court before whom such trial shall be had, shall order such person to be kept in strict custody, in such place and in such manner as

(*b*) As to persons charged with misdemeanors, see 3 & 4 Vict. c. 54, s. 3, *post*.

to the court shall seem fit, until His Majesty's pleasure shall be known; and it shall thereupon be lawful for His Majesty to give such order for the safe custody of such person, during His pleasure, in such place and in such manner as to His Majesty shall seem fit; and in all cases where any person, before the passing of this Act, has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before whom such person has been tried, and still remains in custody, it shall be lawful for His Majesty to give the like order for the safe custody of such person, during his pleasure, as His Majesty is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the ground of insanity. (*c*)

Persons indicted for any Offence, and upon Arraignment found to be Insane, or if upon Trial they shall be so found, etc., the Court shall order them to be kept in custody till His Majesty's pleasure be known.

II. And be it further enacted, that if any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment, (*a*) or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, (*e*) it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until His Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impannelled to try the sanity of

(*c*) See also 3 & 4 Vict. c. 54, s. 7, *post;* 23 & 24 Vict. c. 75, s. 10, *post;* and 25 & 26 Vict. c. 86, s. 15, *ante.*

(*d*) *Reg.* v. *Davies,* 6 Cox, C.C. 326.

(*e*) As to the application of this enactment in cases of misdemeanor, see *R.* v. *Little,* R. & R. C.C. 430; and as to the case of a deaf and dumb person indicted for larceny, and found at the trial to be insane, see *Reg.* v. *Berry,* 45 L. J. R. (N.S.)M. C. 123.

such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place and in such manner as to such court shall seem fit, until His Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for his Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to His Majesty shall seem fit. (*f*)

III. [Repealed by 1 & 2 Vict. c. 14, s. 1, *post.*]

The Privy Council, or one of the Secretaries of State, may cause Persons appearing to be Insane, and endeavouring to gain Admittance to his Majesty, to be kept in Custody till the Insanity of such Persons be inquired into in the manner herein directed, etc.

IV. And whereas insane persons have at different times endeavoured to gain admittance to His Majesty's presence, by intrusion on His Majesty's palaces and places of residence, and otherwise, and His Majesty's person may be endangered by reason of the insanity of such persons: Be it therefore enacted, That, if any person who shall appear to be insane shall endeavour to gain admittance to His Majesty's presence, by intrusion on any of His Majesty's palaces or places of residence, or otherwise, so that there may be reason to apprehend that His Majesty's person may be endangered, it shall be lawful for His Majesty's Privy Council, or one of His Majesty's Principal Secretaries of State, to cause such person to be brought before them or him; and if upon examination it shall appear that there is reason to apprehend such person to be insane, and that the person of His Majesty may be endangered by reason of the insanity of such person, it shall be lawful for His Majesty's Privy Council, or one of His Majesty's Principal Secretaries of State, to order such person to be kept in safe custody in such place, and in such manner as according to circumstances shall be ascertained; and for such purpose, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal of Great Britain, to award a commission under the said Great Seal, directed to certain commissioners

(*f*) See note (*c*) to s. 1, *ante*.

to be therein named, to inquire into the sanity of such person, and whether the person of His Majesty may be endangered by reason of the insanity of such person, and for such purpose, to direct the sheriff of the county where such person shall be, to summon a jury to try the sanity of such person, and whether His Majesty's person may be endangered by reason of the insanity of such person, in the same manner as juries are summoned to try the sanity of persons on a commission in the nature of a writ *de lunatico inquirendo;* and if upon the inquisition so taken it shall be found that such person is so far insane that the person of His Majesty may be endangered by reason of the insanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal for the time being, to take order for the safe custody of such person so long as there shall be reason to apprehend that the person of His Majesty may be endangered by reason of the insanity of such person; and if it shall afterwards appear that such person shall have recovered the use of his or her reason, so that there shall be no longer any reason to apprehend any danger to His Majesty's person from the insanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal for the time being, to inquire into the fact by such means as to him or them shall seem proper; and if it shall appear to his or their satisfaction, that such person has so far recovered the use of his or her reason, that there is no ground for apprehending any danger to His Majesty's person from the insanity of such person, it shall be lawful for the said Lord Chancellor, Lord Keeper, and Lords Commissioners respectively, to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him or them shall seem meet.

1 & 2 Vict. c. 14.

An Act to repeal so much of an Act of the thirty-ninth and fortieth years of King George the Third as authorises Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under circumstances that denote a derangement of mind and a purpose of committing a crime; and to make other provisions for the safe custody of such Persons.

[30*th March*, 1838.

I. [This section, which repealed sec. 3 of 39 & 40 Geo. 3, c. 94, *ante*, was itself repealed in 1874 by 37 & 38 Vict. c. 96; but this repeal did not revive the repealed enactment in 39 & 40 Geo. 3, c. 94, s. 3.]

Persons apprehended as deranged, and intending to commit some Crime, may be sent to Lunatic Asylums. (*a*)

II. (*a*) If at any time . . . any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, it shall and may be lawful for any two justices of the peace of the county, city, borough, or place, where such person shall be so . . apprehended to call to their assistance a physician, surgeon, or apothecary, and if upon view and examination of the said person so . . apprehended, or from other proof, the said justices shall be satisfied that such person is insane or a dangerous idiot, the said justices if they shall so think fit, by an order under their hands and seals, directed . . . to the constable (*b*) or overseers (*b*) of the poor of the parish, township, or place

(*a*) The marginal notes are taken from the revised edition of the statutes; and the enactment is printed as it stands in that edition, certain portions of the section having been repealed in 1874, by 37 & 38 Vict. c. 96.

(*b*) It will be observed that no mention is made of guardians of the poor or relieving officers.

where such person shall be apprehended shall cause the said person to be conveyed to and placed in the county lunatic asylum, (*c*) provided there be one situated within or belonging to the county in which such person shall be . . . apprehended, and if there be no such asylum, then to some public hospital, or some house duly licenced, for the reception of insane persons; (*c*)

Justices may inquire into Settlement of such Persons, and make Order for Payment of their Maintenance, etc.

And it shall be lawful for the said justices (*d*) to inquire into (*d*) and ascertain, by the best legal evidence that can be procured under the circumstances of personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person; and it shall and may be lawful for such two justices to make an order under their hands and seals upon the overseers (*e*) or churchwardens (*e*) of such parish, township, or place where they adjudge him or her to be legally settled, to pay all reasonable charges of examining such person, and conveying him or her to such county lunatic asylum, public hospital, or licenced house, and to pay such weekly sum for his or her maintenance in such place of custody as they or any two justices shall, by writing under their hands, from time to time direct;

And where such place of settlement cannot be ascertained, (*f*) such order shall be made upon the treasurer of the county, city, borough or place where such person shall have been . . apprehended:

Act not to prevent Relations, etc., from taking such Persons under their own Care.

Provided always, that nothing herein contained shall be construed to extend to restrain or prevent any relation or

(*c*) The admission of such persons under this enactment will not be prevented by the provisions of the Acts relating to asylums, hospitals, and licenced houses: see 16 & 17 Vict. c. 96, s. 38, *ante;* and 16 & 17 Vict. c. 97, s. 133, *ante.*

(*d*) "The said justices" means "the same justices who have sent the lunatic to the asylum," but the inquiry into the settlement and the consequent order may be made by them at any time.—*Reg.* v. *Cler. Pac. York, W.R.*, 20 L. J. R. (N.S.) M. C. 18.

(*e*) See note (*b*) on preceding page.

(*f*) An order cannot be made on the county until an inquiry into the place of settlement has been made and has failed.—*Reg.* v. *Cler. Pac York, W. R.*, 20L. J. R. (N.S.) M.C. 18.

friend (*g*) from taking such insane person or dangerous idiot under their (*g*) own care and protection, if he (*g*) shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices of the peace, or the court of quarter sessions, or one of the judges of Her Majesty's courts in Westminster Hall:

Appeal against Order for Maintenance.

Provided always, that the churchwardens and overseers of the parish in which the justices shall adjudge any insane person or dangerous idiot to be settled may appeal against any such order to the next general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, (*h*) giving reasonable notice thereof to the clerk of the peace of the county, riding, or division, or to the town clerk of the city, borough, or place, as the case may be, upon whose rates the burden of maintaining such insane person or dangerous idiot may fall, if such order should be invalid, and such clerk of the peace or town clerk shall be respondent in such appeal, which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine, in the same manner as appeals against orders of removal are now (*i*) heard and determined. (*i*)

III. [Repealed in 1874 by 37 & 38 Vict. c. 96.]

Act not to alter Laws relating to the Discharge of recovered Lunatics.

IV. And be it enacted, that nothing herein contained, except where otherwise expressly mentioned, shall alter the

(*g*) Both "he" and "their" seem to refer to "relation or friend."

(*h*) The documents relating to the appeal should be sent or served by the treasurer or the superintendent of the asylum, and not by the clerk of the peace, or the town clerk, who is to be the respondent.—*Reg.* v. *Cler. Pac. York, W. R.*, 20 L. J. R. (N.S.) M. C. 18.

(*i*) Notwithstanding the word "now," it seems that the procedure in these cases is to be adapted to the changes which may be made from time to time with regard to appeals against orders of removal. See *Reg.* v. *Newport* (*Salop*) *Union*, 33 L. J. R. (N.S.) M. C. 155, 10 L. T. (N.S.) 384, relating to 3 & 4 Vict. c. 54, s. 5 (*post*), in which similar language is used; and see also *Reg.* v. *Justices of Glamorganshire*, 13 Q. B. 561, 18 L. J. R. (N.S.) M. C. 118.

laws relating to the discharge of persons who may cease to be insane or dangerous idiots from any county lunatic asylum, public hospital, or house duly licenced for the reception of insane persons, nor authorise the removal by any parish officer of any poor person from such asylum, public hospital, or licenced house, without an order for that purpose made by two justices of the peace for the county in which such house (*j*) shall be situated, after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured.

Extent of Act.

V. And be it enacted, that this Act shall extend only to England and Wales.

VI. [Repealed in 1874 by 37 & 38 Vict. c. 96.]

VII. [Repealed in 1874 by 37 & 38 Vict. c. 96.]

(*j*) Apparently "such house" must be read as meaning "such asylum, hospital, or house."

3 & 4 Vict. c. 54.

An Act for making further Provision for the Confinement and Maintenance of Insane Prisoners.[1]

[4*th August*, 1840.

Prisoners becoming Insane, two Justices may inquire, with Medical Aid, respecting such insanity.—If certified to be Insane, Secretary of State to grant Warrant for removal to Lunatic Asylum.—If afterwards Sane, how to be dealt with.—Warrant for removal back to Prison, or to discharge.

Whereas it is expedient that further provision should be made for the confinement and maintenance of insane prisoners: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, [*that if any person, while imprisoned in any prison or other place of confinement under any sentence of death, transportation, or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any other than civil process, shall appear to be insane, it shall be lawful for any two justices of the peace of the county, city, borough, or place where such person is imprisoned to inquire, with the aid of two physicians or surgeons, as to the insanity of such person; and if it shall be duly certified by such justices and such physicians or surgeons that such person is insane, it shall be lawful for one of Her Majesty's principal Secretaries of State, upon receipt of such certificate, to direct, by warrant under his hand, that such person shall be removed to such county lunatic asylum or other proper receptacle for insane persons as the said Secretary of State may judge proper and appoint; and every person so removed under this Act, or already removed or in custody under any former Act relating to insane prisoners, shall remain under confinement in such county asylum or other proper receptacle as afore-*

said, or in any other county lunatic asylum or other proper receptacle to which such person may be removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it shall be duly certified to one of Her Majesty's principal Secretaries of State, by two physicians or surgeons, that such person has become of sound mind, whereupon the said Secretary of State is hereby authorised, if such person shall still remain subject to be continued in custody, to issue his warrant to the keeper or other person having the care of any such asylum or receptacle as aforesaid, directing that such person shall be removed back from thence to the prison or other place of confinement from whence he or she shall have been taken, or, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged. (*a*)

Justices of the Peace to inquire into the Settlement of such Prisoner, and make Orders on Parish for Maintenance, etc.—When Settlement not found Order to be made on Treasurer of County.—In case the Person is possessed of Property, it shall be applied towards the Expenses incurred on his account.

II. And be it enacted, that in all such cases as aforesaid, (*b*) unless one of Her Majesty's principal Secretaries of State shall otherwise direct, it shall be lawful for such two justices, or any other two justices of the peace of the county, (*c*) city, borough, or place where such person is imprisoned, (*d*) to

(*a*) Repealed, and other provisions substituted, by 27 & 28 Vict. c. 29, s. 1, *post*. But see *Reg.* v. *Cobus*, 1 Cox, C. C. 207; *Reg.* v. *Dwerryhouse*, 2 Cox C. C. 291, 446; and *Reg.* v. *Blackwell*, 7 Cox C.C., 353.

(*b*) See 27 & 28 Vict. c. 29, s. 4, *post*.

(*c*) In *Bradford Union* v. *Cler. Pac. Wilts*, 37 L. J. R. (N.S.), M. C. 129, 18 L. T. (N.S.) 514, 9 B. and S. 660, L. R. 3 Q. B. 604, it was held that the justices of the county to which the prison belonged could make the order while sitting in a neighbouring borough which possessed an exclusive jurisdiction.

(*d*) E., being tried, convicted, and sentenced to death, for a murder committed within a borough having a separate court of quarter sessions, and also having a contract with the justices of the county for the reception of its prisoners into the county jail, under sec. 31 of 28 & 29 Vict. c. 126, was confined in such county jail, in pursuance of the contract, and while so confined was found to be insane, and was removed to the Criminal Lunatic Asylum at Broadmoor, under a warrant of the Secretary of State, who thereupon required the visiting justices of the county to inquire into the lunatic's settlement, and make an order of maintenance under 3 & 4 Vict. c. 54, s. 2, which such justices objected to do:—Held, by the

inquire into (*e*) and ascertain, by the best evidence or information that can be obtained under the circumstances, of the personal legal disability of such insane person, the place of the last legal settlement, (*f*) and the pecuniary circumstances of such person; and if it shall not appear that he or she is possessed of sufficient property which can be applied to his or her maintenance, it shall be lawful for such two justices by order (*g*) under their hands, to direct the overseers of the parish (*f*) where they adjudge him or her to be lawfully settled, or in case such parish (*f*) be comprised in a union declared by the Poor Law Commissioners, or shall be under

Court of Queen's Beneh, that the visiting justices of the county were the proper justices to make the inquiry and order under the last-named enactment.—*Reg.* v. *Visiting Justices of Lewes Prison*, 44 L. J. R. (N.S.) M. C. 57, 31 L. T. (N.S.) 723. This judgment of the Queen's Beneh was afterwards affirmed in the Exchequer Chamber—44 L. J. R. (N.S.), M.C. 176, 32 L. T. (N.S.) 673.

(*e*) In *Bradford Union* v. *Cler. Pac. Wilts*, 37 L. J. R. (N.S.) M. C. 129, 18 L. T. (N. S.) 514, 9 B. and S. 660, L. R. 3 Q. B. 604, it was held that this inquiry and the consequent order might be made after the expiration of the prisoner's sentence. But now see 30 & 31 Viet. c. 12, s. 6, *post*.

(*f*) A lunatie wife being sent to an asylum under a warrant of the Secretary of State, and the husband being irremovable under 9 & 10 Viet. c. 66, it was held that, notwithstanding sueh irremovability, the order for the wife's maintenanee in the asylum was properly made on the parish of the settlement, under 3 & 4 Viet. c. 54, s. 2.—*Reg.* v. *Bishopwearmouth*, 23 J. P. 100 (see also *Reg.* v. *Leaden Roothing*, 12 Q. B. 181).

(*g*) In a case where an insane prisoner had been sent by warrant of a secretary of State to a lieenced house, and no order of maintenance had been made by justices, but the guardians of the union to whieh he was chargeable had paid a certain weekly sum for his maintenance during several years, it was held by the Court of Common Pleas that the guardians were bound to continue to make the same payment, the inference being either that there had been an order of justiees for the payment of such sum, or an agreement on the part of the guardians to pay it.—*Pegge* v. *Lampeter Union*, 41 L. J. R. (N.S.) C. P. 204, L. R. 7 C. P. 366. This decision, however, was reversed in the Exchequer Chamber, where it was held that no inference could be drawn that there had been either an order or an agreement as suggested—43 L. J. R. (N.S.) C. P. 181. It seems from this deeision in the Exchequer Chamber that the guardians are not liable to pay in such a case without an order of justices; and it may be further inferred that they are not legally justified in doing so. The provision in s. 103 of 16 & 17 Viet. c. 97, *ante*, which enables the guardians to pay without an order, does not apply to eriminal lunatics.

the management of a board of guardians established by the Poor Law Commissioners, then the guardians of such union, or of such parish (as the case may be), to pay on behalf of such parish, (*h*) in the case of any person removed under this Act, all reasonable charges for inquiring into such person's insanity, and for conveying him or her to such county lunatic asylum or receptacle for insane persons, and to pay (*i*) such weekly sum as they or any two justices shall, by writing under their hands, from time to time direct, for his or her maintenance in such asylum or receptacle in which he or she shall be confined; (*j*) ; (*k*) and when the place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county, city, borough, or place where such person shall have been imprisoned; (*j*) but if it shall appear, upon inquiry, to the said or any other two justices of the county, city, borough, or place where such person is imprisoned, that any such person is possessed of property, such property shall be applied for or towards the expenses incurred or to be hereafter incurred on his or her behalf, and they shall from time to time, by order under their hands, direct the overseers (*l*) of any parish where any money or securities for money, goods, chattels, lands, or tenements of such person shall be, to seize so much of the said money, or to seize and sell so much of the said goods and chattels, or receive so much of the annual rent of the lands or tenements of such person, as may be necessary to pay the charges, if any, of inquiring into such person's insanity, and of removal, and also the charges of maintenance, clothing, medicine, and care of any such insane person, accounting for the same at the next special petty sessions of

(*h*) See 27 & 28 Vict. c. 29, s. 5, *post*, which transfers the charge to the common fund, in the case of a parish comprised in a union formed under 4 & 5 Wm. iv. c. 76.

(*i*) The justices cannot make their order retrospective, so as to direct the payment of past maintenance.—*Bradford Union* v. *Cler. Pac. Wills*, 37 L. J. R. (N.S.) M. C. 129, 18 L. T. (N.S.) 514, 9 B. and S. 660, L. R. 3 Q. B. 604.

(*j*) See also 23 & 24 Vict. c. 75, s. 10, *post*.

(*k*) The clause here omitted was repealed in 1874 by 37 & 38 Vict. c. 96.

(*l*) See 27 & 28 Vict. c. 29, s. 5, *post*, which substitutes the guardians of the union for the overseers of the parish, with respect to any parish comprised in a union formed under 4 & 5 Wm. iv. c. 76.

the division, city, or borough in which such order shall have been made, such charges having been first proved to the satisfaction of such justices, and the amount thereof being set forth in such order. (*m*)

Persons charged with Misdemeanors acquitted on the ground of Insanity, may be kept in Custody.—39 & 40 *Geo. III., c.* 94.—*Like powers in such cases as in cases before mentioned for inquiring into Settlement and ordering Maintenance.*

III. And whereas it is expedient that the same provision shall be made with regard to persons charged with misdemeanors as is made with regard to persons charged with treason, murder or felony, by virtue of an Act passed in the session holden in the thirty-ninth and fortieth years of the reign of King George the Third, intituled "An Act for the safe Custody of Insane Persons charged with Offences," (*n*) be it therefore enacted, that in all cases where it shall be given in evidence upon the trial of any person charged with any misdemeanor that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of the committing such offence the court before whom such trial shall be had shall order such person to be kept in strict

(*m*) S——, being about to be tried on a charge of murder, conveyed an estate in the township of H—— to trustees upon certain trusts, subject to a previous mortgage to L——, and was afterwards acquitted on the ground of insanity. L—— then sold the estate, and after satisfying the mortgage debt and costs, there remained a balance of £100 in his hands. S—— having been sent to a lunatic asylum under a warrant of the Secretary of State, an order for his maintenance was made, under 3 & 4 Vict. c. 54, s. 2; and the overseers of H—— thereupon obtained an order, under the last clause of the same section, for reimbursement out of the lunatic's estate, and demanded the balance in L——'s hands, which he refused to pay over. Held, that this order could not be enforced, the enactment being inapplicable to the recovery of money under such circumstances.—*In re Simpson's Trust Estate, ex parte the Overseers of Old Hutton*, 20 L. J. R. (N.S.) M. C. 231, 18 Q. B. 77, 15 Jur. 754.

(*n*) 39 & 40 Geo. iii. c. 94, s. 1, *ante*.

custody, in such place and in such manner as to the court shall seem fit, until Her Majesty's pleasure shall be known; and it shall thereupon be lawful for Her Majesty to give such order for the safe custody of such person, during Her pleasure, in such place and in such manner as to Her Majesty shall seem fit. (*o*) And in all such cases (*p*) any two justices of the peace of the county, city, or place where such person shall have been acquitted on account of insanity, or shall be kept in custody, shall have the like power as is given in the cases before mentioned (*q*) to inquire into and ascertain the last legal settlement of such insane person, and also to make the like order or orders for the payment of such person's maintenance and of other charges as above mentioned. (*r*)

Persons aggrieved may appeal from the Order of the Justices.

IV. Provided always, and be it enacted, that if any person shall feel aggrieved by any order of any justices as aforesaid, such person may appeal to the justices of the peace at the next quarter sessions of the peace to be holden in and for the county, city, borough, or place where the matter of appeal shall have arisen, the person so appealing having given to the justices against whose order such appeal shall be made ten days' notice of his or her intention to make such appeal; and the said justices at such sessions are hereby authorised and required to hear and determine the matter of such appeal in a summary way, and to make such determination as they shall think proper, and shall and may also award such further satisfaction to the party injured, or such costs to either of the parties, as they shall judge reasonable and proper; and every such determination shall be final and conclusive to all intents and purposes whatsoever, and no certiorari shall be allowed.

(*o*) The clause here omitted was repealed in 1874 by 37 & 38 Vict. c. 96.

(*p*) This appears to mean, "all cases of persons charged with misdemeanor, as aforesaid;" and not to include the cases of treason, murder, or felony referred to in the former Act; but see s. 7 of the present Act, *post*.

(*q*) See s. 2, *ante*. See also 23 & 24 Vict. c. 75, s. 10, *post*.

(*r*) As to he property of persons acquitted on the ground of insanity, see 25 & 26 Vict. c. 86, s. 15, *ante*.

Overseers or Guardians may appeal against the Order of the Justices on the Parish.

V. Provided also, and be it enacted, that the overseers of the parish in which the justices shall adjudge any insane person to be settled, or in case such parish be comprised in a union, or be under the management of a board of guardians, then *either* (*s*) the guardians of such union or parish (as the case may be), *or the overseers of such parish*, (*s*) may appeal against such order to the general quarter sessions of the peace to be holden for the county, city, borough, or place where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice (*t*) thereof to the clerk of the peace of such county, city, borough, or place, who shall be respondent in such appeal, which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine in the same manner as appeals against orders of removal are now (*u*) heard and determined.

VI. [This section, which repealed s. 55 of 9 Geo. IV. c. 40, was itself repealed in 1874 by 37 & 38 Vict. c. 96, but the former enactment was not thereby revived.] (*v*)

9 *Geo. IV. c.* 40, *s.* 54.—*Two Justices to fix the sums to be paid by Overseers or Guardians for the Maintenance of insane Prisoners.*

VII. And whereas by the said last-mentioned Act it was

(*s*) Repealed by 27 & 28 Vict. c. 29, s. 6 (*post*), as regards the overseers of any parish in a union. In the above enactment, the word "union" appears to be confined to unions formed under 4 & 5 Wm. iv. c. 76, having regard to the terms of s. 2, *ante*.

(*t*) A notice received more than 21 days after the date of the order, but 14 days before the following sessions, is in time.—*Reg.* v. *the Guardians of the Newport (Salop) Union*, 10 L. T. (N.S.) 384, 33 L. J. R. (N.S.) M.C. 155. See also *Reg.* v. *Glamorganshire J.J.*, 13 Q. B. 561, 18 L. J. R. (N.S.) M. C. 118, which referred to the repealed Act, 8 & 9 Vict. c. 126. A notice given by guardians may be signed by their clerk.—*Reg.* v. *Newport Union*, 10 L. T. (N.S.) 384, 33 L. J. R. (N.S.) M. C. 155.

(*u*) See note (*i*) to 1 & 2 Vict. c. 14, s. 2, *ante*.

(*v*) The whole of the Act, 9 Geo. iv. c. 40, has since been repealed: see Introduction, chapter II., *ante*, p. 296. A previous Act, 56 Geo. iii. c. 117, directed that criminals becoming insane after conviction should be removed to a lunatic asylum; but this was repealed by 9 Geo. iv. c. 40, s. 1, and other provisions were made by sec. 55.

among other things enacted, that it should be lawful for two justices of the peace of the county where any person should be kept in custody as an insane person by order of any court, or by His Majesty's order subsequent thereunto, to inquire into and ascertain the settlement and circumstances of such insane person, and to make order for the payment of such weekly sum for his or her maintenance as one of His Majesty's principal Secretaries of State should, by writing under his hand, from time to time direct: and whereas it is expedient that so much of the said Act as relates to such direction to be given by such Secretary of State should be repealed, and other provisions made in the place thereof: be it therefore enacted, *that (w) so much of the said Act as relates to such directions to be given by such Secretary of State shall be and the same is hereby repealed;* and that it shall be lawful for such two justices, by order under their hands, to direct the overseers of the parish in which they shall adjudge such person as last aforesaid to be legally settled, or in case such parish shall be comprised in a union declared by the Poor Law Commissioners, or shall be under the management of a board of guardians established by the Poor Law Commissioners, then the guardians of such union or parish, as the case may be, to pay such weekly sum for the maintenance of such person as they or any such two justices shall, by writing under their hands, direct. (*x*)

(*w*) The clause here printed in italics was repealed in 1874, by 37 & 38 Vict. c. 96, but the enactment—viz., 9 Geo. iv. c. 40, s. 54—which that clause repealed was not thereby revived.

(*x*) See also s. 3 of the present Act, *ante*, and the notes thereon; as well as 23 & 24 Vict. c. 75, s. 10, *post*. As to the property of persons acquitted on the ground of insanity, see 25 & 26 Vict. c. 86, s. 15, *ante*. In the first edition of this work, in a note on the above section, after referring to the entire repeal of 9 Geo. iv. c. 40, by 8 & 9 Vict. c. 126, it was stated as follows:—"Notwithstanding that repeal, the above enactment (s. 7) appears to be still in force, with reference to cases occurring under 39 & 40 Geo. iii. c. 94." This point has since been so decided by the Court of Queen's Bench in *Reg.* v. *Stepney Union*, 43 L. J. R. (N.S.) 145, 30 L. T. (N.S.) 808, L. R. 9 Q. B. 383. In that case a woman indicted for murder, and acquitted on the ground of insanity, was detained in custody, to be sent to the Criminal Lunatic Asylum at Broadmoor, and an order of justices was made, adjudging her settlement, and directing the guardians to pay for her maintenance there; and it was held that, notwithstanding the repeal of 9 Geo. iv.

Interpretation of Act.

VIII. And in order to remove doubts as to the meaning of certain words in this Act, be it enacted, that the words "treasurer of the county, city, borough, or place," shall be deemed to include any officer in any county, riding, division liberty, county of a city, county of a town, cinque port, or town corporate, who has the custody of any funds assessed upon or raised in or belonging to such county, riding, division, liberty, county of a city, county of a town, cinque port, or town corporate, in the nature of county rates, and applicable to the purposes to which county rates are applicable; that the words "insane person" shall be deemed to include any lunatic or dangerous idiot; and that the words "county, city, borough, or place," shall be deemed to include any county, riding, division, liberty, county of a city, county of a town, cinque port, or town corporate; and the word "parish" shall be deemed to include any township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor.

Extent of Act.

IX. And be it enacted, that this Act shall extend only to England and Wales.

X. [Repealed in 1874 by 37 & 38 Vict. c. 96.]

c. 40, the justices had power to make the order under 3 & 4 Vict. c. 54, s. 7.

In that case, also, it was held that the service of the order need not be accompanied by a statement of the grounds of the order or particulars of the settlement.

And in the same case, it was further held that an arrear of payment under the order is "a debt, claim, or demand," within 22 & 23 Vict. c. 49, s. 1, *ante*, to which the limitation of time prescribed by that Act applies.

6 & 7 Vict. c. 26.

An Act for regulating the Prison at Millbank.

[27*th June*, 1843.

Insane Convicts to be removed to Lunatic Asylums.

XXI. And be it enacted, that if any convict in the said prison shall become or be found to be insane during such confinement upon the certificate of two physicians or surgeons, and shall be so reported by the inspectors (*a*) to one of Her Majesty's principal Secretaries of State, it shall be lawful for such Secretary of State, by warrant under his hand, to order that such insane convict shall be forthwith removed to such lunatic asylum as the said Secretary of State may judge proper; and every convict so removed shall remain under confinement in such asylum, or in any other lunatic asylum to which such convict shall be lawfully removed, until it shall be duly certified to one of Her Majesty's principal Secretaries of State by two physicians or surgeons that such convict has become of sound mind, whereupon, if the time for which such convict was sentenced to be imprisoned shall not have expired, the Secretary of State shall be authorized to issue his warrant to the governor or other person having the care of such asylum, ordering that such convict be remanded to the Millbank Prison, or, if the period of imprisonment of such convict shall have expired, that he or she be discharged.

(*a*) *i.e.*, the inspectors of the Millbank Prison: see s. 10 of the Act

14 & 15 Vict. c. 81.

An Act to authorise the Removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India.

[*7th August*, 1851.

Whereas it is expedient to make provision for the several purposes hereinafter mentioned: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to remove from India to the United Kingdom persons of European birth found Guilty of Crimes and Offences, and acquitted on the ground of Insanity.

I. That if any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the government of the Presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of Her Majesty concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

Order of Government of India to be a sufficient Warrant and Authority for the purpose of Removal.

II. That the orders and directions of the said government of any of the said Presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant

and authority to all commanders of vessels, and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an order shall be made by Her Majesty as hereinafter is mentioned; and that upon the arrival of any such person in the United Kingdom it shall be lawful for Her Majesty to give such order for the safe custody of such person during Her pleasure in such place and in such manner as to Her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of His late Majesty King George the Third, intituled "An Act for the safe Custody of Insane Persons charged with Offences."(*a*)

Expenses of removal to be defrayed by East India Company, and charged upon the Revenues of India.

III. That all expenses attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorised to charge the amount of such expenses upon the revenues of the government of India.(*b*)

The amount of Expenses incurred by the East India Company to be a Debt due from the Lunatic, and secured by a Judgment in England and Ireland, and by Decree of Registration in Scotland.

IV. That the amount of all expenses incurred by the East India Company(*b*) in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company;(*b*) and that for securing the payment thereof the East India Company(*b*) shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expenses incurred and to be incurred in respect of the mat-

(*a*) 39 & 40 Geo. iii. c. 94, *ante*.
(*b*) See 21 & 22 Vict. c. 106, transferring the government of India from the East India Company to the Crown.

ters aforesaid, and the costs of ascertaining the same as after mentioned; and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the Court of Directors directing such judgment to be entered up, certified by the Secretary of the said Company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interponed thereon which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due; and that upon application to be from time to time made to the Lord Chancellor of Great Britain in England (*c*) or Chancellor in Ireland, (*c*) being intrusted with the care of persons of unsound mind, (*c*) or the court of session in Scotland, the amount of such expenses reasonably and properly incurred shall be ascertained by a reference to one of the Masters of the Court of Chancery, or by a remit to the accountant of the court of session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct; and the East India Company (*d*) shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England and Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of council and session, and a decree of the court of session interponed thereto.

Lunatics and Idiots may be removed from India by orders of the Supreme Courts at the several Presidencies.

V. That in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by the

(*c*) See s. 7, *post*.
(*d*) See note (*b*) on preceding page.

supreme court of judicature at any of the Presidencies of India, it shall be lawful for such supreme court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorising or directing his removal, and touching his safe custody and maintenance, as to such supreme court shall seem fit and proper: provided always, that in every such case a transcript of the proceedings in the matter of the idiotcy or lunacy of such person shall, under the provisions hereinafter contained, (*e*) be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of all Inquisitions and Orders to be transmitted and entered of Record, and to be acted upon in the United Kingdom as if the Inquisitions had been taken in the United Kingdom.

VI. That in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by any of the supreme courts in India as aforesaid, it shall be lawful for the proper officer of the said supreme court by order of such court to transmit a transcript, under the hand and seal of the chief justice or senior judge of such supreme court, of the proceedings by which the idiotcy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the chancery in England and the court of session in Scotland and the chancery of Ireland respectively, as the case may require, and that such transcript, when so received, shall be entered as of record, in the court or courts to which the same shall be transmitted; and that in the case of any supersedeas of any such proceedings the same shall be certified and transmitted and recorded in like manner; and that the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons instructed as aforesaid, (*f*) or the court of session in Scotland, or the Chancellor of Ireland intrusted as aforesaid (*f*) (as the case may require), shall

(*e*) See s. 6, *post.*
(*f*) See s. 7, *post.*

respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland, respectively; and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, (*g*) the court of session in Scotland, and the Chancellor of Ireland intrusted as aforesaid, (*g*) respectively, from time to time to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

Powers given to the Lord Chancellor to extend to Lord Keeper and Commissioners of the Great Seal.

VII. That the powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid, and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted as aforesaid.

(*g*) See s. 7, *post*.

23 & 24 Vict. c. 75.

An Act to make better Provision for the Custody and Care of Criminal Lunatics.

[*6th August*, 1860.

39 & 40 *Geo. iii. c.* 94.—3 & 4 *Vict. c.* 54.—5 & 6 *Vict. c.* 29.—6 & 7 *Vict. c.* 26.

Whereas by the Act of the session holden in the thirty-ninth and fortieth years of King George the Third, chapter ninety-four, (*a*) and the Act of the session holden in the third and fourth years of Her Majesty, chapter fifty-four, (*b*) Her Majesty is empowered, where any person is charged with any such offence as therein mentioned, and acquitted on account of insanity, and where any person is indicted for any offence and upon an arraignment is found insane, to give order for the safe custody of such person during Her pleasure, in such place and in such manner as she may think fit; and by the said Act of the third and fourth years of Her Majesty (*b*) one of Her Majesty's principal Secretaries of State is empowered, upon such certificate as therein mentioned of the insanity of any person imprisoned as therein mentioned, to direct such person to be removed to such county lunatic asylum, or other proper receptacle for insane persons, as the said Secretary of State may judge proper and appoint: and whereas by the Acts of the session holden in the fifth and sixth years of Her Majesty, chapter twenty-nine, (*c*) and of the session holden in the sixth and seventh years of Her Majesty, chapter twenty-six, (*d*) the said Secretary of State is empowered to order any convict in Pentonville (*c*) or Millbank (*d*) Prison becoming or found insane during confinement to be removed to such lunatic asylum as the said Secretary

(*a*) See *ante*, p. 579.
(*b*) See *ante*, p. 587.
(*c*) This provision was contained in s. 23 of 5 & 6 Vict. c. 29, but that section was repealed in 1874 by 37 & 38 Vict. c. 96.
(*d*) See *ante*, p. 596.

of State may think proper; and whereas it is expedient that provision should be made for the custody and care of criminal lunatics in an asylum or asylums appropriated to that purpose: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Her Majesty may appoint Asylum for Criminal Lunatics.

I. It shall be lawful for Her Majesty from time to time, by warrant under Her Royal Sign-manual, to appoint that any asylum or place in England which Her Majesty may have caused to be provided or appropriated, and may deem suitable for this purpose, shall be an asylum for criminal lunatics, and the provisions of this Act shall be applicable to every such asylum. (*e*)

Secretary of State may direct Criminal Lunatics to be confined in the Asylum.

II. It shall be lawful (*f*) for one of Her Majesty's principal Secretaries of State, by warrant under his hand, to direct to be conveyed to and kept in any such asylum any person for whose safe custody during Her pleasure Her Majesty is authorised to give order, or whom such Secretary of State might direct to be removed to a lunatic asylum under any of the Acts hereinbefore mentioned, or under any other Act of Parliament, or any person sentenced or ordered to be kept in penal servitude, who may be shown to the satisfaction of the Secretary of State to be insane, or to be unfit from imbecility of mind for penal discipline; and the Secretary of State may direct to be removed to and kept in such asylum any such persons as aforesaid, who, under any previous order of Her Majesty or warrant of the Secretary of State, may have been placed and remain in any county lunatic asylum, or other place of reception for lunatics, and every person directed by the Secretary of State to be con-

(*e*) An asylum under this Act has been established at Broadmoor, near Wokingham, Berks: see Introduction, chapter III., *ante*, p. 575. As to the classes of criminal lunatics sent there, see the Twenty-first Report of the Commissioners in Lunacy (1867), p. 13.

(*f*) This provision is discretionary: see s. 3, *post*.

veyed or removed to and kept in an asylum under this Act, shall be conveyed to such asylum accordingly, and shall be kept therein until lawfully removed or discharged, and that with every person so conveyed or removed there shall be transmitted a certificate, as set forth in schedule A to this Act annexed, duly filled up and authenticated, the contents of which certificate shall be transcribed into the general register to be kept in every such asylum.

Nothing to affect the Authority of the Crown to make other Provision for the Custody of a Criminal Lunatic.

III. Nothing in this Act shall restrain or affect the authority of Her Majesty, where she may so think fit, to give such other order for the safe custody of any such person as aforesaid as she might have given if this Act had not been passed, or restrain or affect the authority of the Secretary of State to continue in or direct to be removed to any county asylum or other place for the reception of lunatics any of the persons aforesaid whom he might have so continued or directed to be removed if this Act had not been passed.

Secretary of State to appoint Council of Supervision and Officers for Asylums.

IV. It shall be lawful for the Secretary of State from time to time to appoint any such persons as he may think fit, being not less than three in number, to be a council of supervision for any asylum under this Act, and to remove all or any of the said council, and upon the removal, death, or resignation of any member of the said council, to appoint another in his place; and also from time to time to appoint for the asylum a resident medical superintendent, a chaplain, and such other officers, assistants and servants, as he may deem necessary, and at pleasure to remove such superintendent, chaplain, officers, assistants, and servants respectively; and the Secretary of State, with the approval of the Commissioners of Her Majesty's Treasury, shall fix the salaries to be paid to the superintendent, chaplain, officers, assistants, and servants of such asylum. (*g*)

Secretary of State to make Rules for the government of the Asylum.

V. It shall be lawful for the Secretary of State from time

(*g*) See note (*g*) to s. 5, *post.*

to time to make rules for the government and management of the asylum, and for the duties and conduct of the officers thereof, and for the care and treatment of the persons confined therein, and to subscribe a certificate that they are fit to be enforced, and such rules, when so certified, shall be binding on the council, and all officers, assistants, and servants of the asylum, and all other persons whomsoever, and all such rules shall be laid before Parliament within twenty-one days after they shall be certified, or if Parliament be not sitting, then within twenty-one days after the next meeting of Parliament. (*g*)

Subject to such Rules, Council to superintend Asylum.

VI. Subject to the rules certified by the Secretary of State under this Act, the council of supervision shall superintend and direct the management and conduct of the asylum, and the care and treatment of the lunatics confined therein; and such council or any two of them shall from time to time, as by the rules shall be provided, and at such other times as they may think fit, report in writing to the Secretary of State in relation to the management and conduct of the said asylum and the condition thereof, and to any matters concerning the same; and if any person detained and confined as aforesaid shall be of a religious persuasion differing from that of the Established Church, a minister of such persuasion at the special request of such person or of his friends and relations shall be allowed to visit him at proper and reasonable times by application to the medical superintendent, and under such rules as may be approved of by the Secretary of State, but no such person shall be compelled to attend any of the ordinances or instructions of any religious persuasion other than his own.

(*g*) "Pursuant to the 5th section of the Act, Rules for the guidance of the officers, attendants, and servants of the asylum were duly made by the Secretary of State, and laid before Parliament." Eighteenth Report of the Commissioners in Lunacy, 31st March, 1864, p. 49. The "rules" referred to were ordered by the House of Commons to be printed on 27th July, 1863 (Sess. Papers, No. 517). In their Twenty-ninth Report (1875), p. 273, the Commissioners stated that "the Superannuation Act of 1859 [22 Vict. c. 26] is applicable to the whole of the staff of the asylum; and by a recent minute of the Lords of the Treasury, further provision is made for the cases of those who may sustain injury or loss of life in the execution of their duty."

Provision as to Removal and Discharge of Lunatics.

VII. The provisions of the Acts hereinbefore mentioned, (*h*) or of any other Act for the removal or discharge of lunatics whom the said Secretary of State is, under the hereinbefore mentioned Acts (*h*) or any other Act now in force, authorised to direct to be removed to any lunatic asylum, shall extend and apply to any lunatic whom the Secretary of State may direct to be conveyed to any asylum for criminal lunatics appointed under this Act: provided always, that any order for removal or discharge which may now be made by the Secretary of State on the certificate of two physicians or surgeons may be made on the certificate of the resident medical superintendent of the asylum and any two of the council of supervision.

Provision for Discharge of Persons confined after their Term of Imprisonment has expired.

VIII. [*Provided also, that where by reason of the expiration of his term of imprisonment or penal servitude, or otherwise, a person confined in the asylum would be entitled to his discharge if duly certified to have become of sound mind, it shall be lawful for the Secretary of State by his warrant to order the discharge of such person, although he may not have been certified as aforesaid, to the intent that he may be placed in a county lunatic asylum, or otherwise subjected to the same care and treatment as lunatics not being criminals.*] (*i*)

Secretary of State may permit any Lunatic to be absent from Asylum on Trial, etc.

IX. Provided also, that it shall be lawful for the Secretary of State by his warrant to permit any person confined in the asylum to be absent from such asylum upon trial for such period as he may think fit, or to permit any such person to be absent from such asylum upon such conditions in all respects as to the Secretary of State shall seem fit, and in case any person so permitted to be absent upon trial for any period do not return at the expiration of such period, or in case any of the conditions on which any person is so per-

(*h*) See preamble, *ante*, p. 602.

(*i*) Repealed, and other provisions made, by 30 & 31 Vict. c. 12, s. 6, *post*.

mitted to be absent be broken, the person not returning at such expiration or absent after any such condition has been broken, as the case may be, may be retaken as herein provided in the case of an escape. (*j*)

Provisions of 3 & 4 *Vict. c.* 54, *as to Expenses of Conveyance and Maintenance to apply to this Act.*

X. All provisions in the said Act of the third and fourth years of Her Majesty (*k*) for the payment of the conveyance of such insane persons as therein mentioned to any asylum or other receptacle, and of his maintenance therein, shall extend and be applicable to the conveyance of any such person to any asylum for criminal lunatics, and his maintenance therein, and all sums payable under any order made under such provisions shall be paid and applied towards defraying or reimbursing the expenses in respect of which the same are paid, or other expenses of the asylum, as the Commissioners of Her Majesty's Treasury may direct. (*k*)

Lunatics escaping may be retaken by Superintendent, etc.

XI. In case of escape of any person confined in any asylum for criminal lunatics, he may be retaken at any time by the superintendent of such asylum, or any officer or servant belonging thereto, or any person assisting such superintendent, officer, or servant in this behalf, or any other person authorised in writing in this behalf by the Secretary of State or such superintendent, and conveyed to and received and detained in such asylum.

Punishment of Persons for Rescue or permitting Escape.

XII. Any person who rescues any person ordered to be conveyed to any asylum for criminal lunatics during the time of his conveyance thereto, or of his confinement therein, and any officer or servant in any asylum for criminal lunatics, who

(*j*) See s. 11, *post*. See also 30 & 31 Vict. c. 12, s. 4, *post*.

(*k*) See 3 & 4 Vict. c. 54, s. 2, *ante*; s. 3, *ante*; and s. 7, *ante*. See also 27 & 28 Vict. c. 29, s. 5, *post*, and 30 & 31 Vict. c. 12, s. 4, *post*. As to the property of persons acquitted on the ground of insanity, see 25 & 26 Vict. c. 86, s. 15, *ante*. See also the cases of *Reg.* v. *Justices of Lewes Prison* (note (*d*) to 3 & 4 Vict. c. 54, s. 2, *ante*); and *Reg.* v. *Stepney Union* (note (*x*) to 3 & 4 Vict. c. 54, s. 7, *ante*).

through wilful neglect or connivance permits any person confined therein to escape therefrom, or secretes, or abets or connives at the escape of any such person, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding four years, or to be imprisoned for any term not exceeding two years, with or without hard labour, at the discretion of the court, and any such officer or servant who carelessly allows any such person to escape as aforesaid, shall on summary conviction before two justices of such offence, forfeit any sum not exceeding twenty pounds nor less than two pounds.

Penalty on Officers or Servants ill-treating Lunatics.

XIII. Any superintendent, officer, nurse, attendant, servant, or other person employed in any asylum for criminal lunatics who strikes, wounds, ill-treats, or wilfully neglects any person confined therein, shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, and on conviction under the indictment to fine or imprisonment, with or without hard labour, or to both fine and imprisonment, at the discretion of the court, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds nor less than two pounds.

Commissioners in Lunacy to visit Asylums.

XIV. Two or more of the Commissioners in Lunacy, one at least of whom shall be a physician or surgeon, and one at least a barrister, shall, once or oftener in each year, on such day or days and at such hours of the day and for such length of time as they think fit, and also at any time when directed by the Secretary of State, visit every asylum for criminal lunatics, and shall inquire as to the condition, as well mental as bodily, of the persons confined therein, or any of them, and shall also make such other inquiries as to such asylum as to them may seem proper, or as such Secretary of State may direct. (*l*)

(*l*) The asylum at Broadmoor was visited, under this section, by three of the Commissioners in Lunacy on 6th and 7th November, 1863: see 18th Annual Report of the Commissioners, 1864, p. 49; and see also the 1st Report of the Commissioners to the Secretary of State, under s. 15 of the Act, referred to in the note on that section, *post*. As to subsequent visits, see the several Annual Reports of the Commissioners since that date.

And report to Secretary of State.

XV. The Commissioners in Lunacy shall in the month of March in every year report to one of Her Majesty's principal Secretaries of State the visits made as aforesaid (*m*) in the preceding year, and all such particulars in relation to every asylum visited as aforesaid (*m*) as they think deserving of notice, and shall also report in like manner in relation to any visit made by the direction of the Secretary of State, as soon as conveniently may be after such visit, and a copy of every such report shall be laid before Parliament within twenty-one days after the receipt thereof, or if Parliament be not sitting, then within twenty-one days after the next meeting of Parliament. (*m*)

SCHEDULE (A).

STATEMENT RESPECTING CRIMINAL LUNATICS TO BE FILLED UP AND TRANSMITTED TO THE MEDICAL SUPERINTENDENT WITH EVERY CRIMINAL LUNATIC.

Name.
Age.
Date of Admission.
Former occupation.
From whence brought.
Married, single, or widowed.
How many children.
Age of youngest.
Whether First Attack.
When previous Attacks occurred.
Duration of existing Attack.
State of bodily Health.
Whether suicidal or dangerous to others.
Supposed Cause.
Chief Delusions or Indications of Insanity.
Whether subject to Epilepsy.

(*m*) See s. 14, *ante*.—The Commissioners made their first report to the Secretary of State, on the Asylum at Broadmoor, on 31st March, 1864 (see House of Commons Sess. Papers, No. 216; and the Nineteenth Report of the Commissioners, 1865, p. 20). As to subsequent reports, see the Annual Reports of the Commissioners since that date.

Schedule (A).—*continued.*

Whether of temperate Habits.
Degree of Education.
Religious Persuasion.
Crime.
When or where tried.
Verdict of Jury.
Sentence.

25 & 26 Vict. c. 104.

An Act for the discontinuance of the Queen's Prison, and Removal of the Prisoners to Whitecross Street Prison.

[*7th August*, 1862.

Removal of Lunatic Prisoners.

V. If any prisoner confined in Whitecross Street Prison under the authority of this Act is reported by the keeper thereof to one of Her Majesty's Principal Secretaries of State to be of unsound mind, such Secretary of State may cause such prisoner to be examined by two persons, being either physicians or surgeons, and upon their certifying that the prisoner is of unsound mind the Secretary of State may, by warrant under his hand, directed to the said keeper, order such prisoner to be removed to the Royal Hospital at Bethlehem, or to some other asylum named in such warrant.

The removal of a prisoner in pursuance of this section shall not be deemed to be an escape, and he shall remain under confinement in such hospital or asylum, or in such other hospital or asylum as the Secretary of State may from time to time direct, until certified by two medical men to be of sound mind, in which case he shall be sent back by order of the Secretary of State to Whitecross Street Prison, if still liable to be confined there, and if not so liable shall be discharged.

Neither the president, treasurer, or governors of Bethlehem Hospital, nor the superintendent of any asylum to which a prisoner may be removed under this Act, shall be answerable for the escape of such prisoner from such hospital or asylum.

27 & 28 Vict. c. 29.

An Act to amend the Act Third and Fourth Victoria, chapter fifty-four, for making further Provision for the confinement and Maintenance of Insane Prisoners.

[23*rd June*, 1864.

3 & 4 *Vict. c.* 54.

Whereas it is expedient to amend an Act passed in the session of the third and fourth years of Her Majesty's reign, chapter fifty-four, intituled "An Act for making further provision for the Confinement and Maintenance of Insane Prisoners:" be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Sect. 1 *of recited Act repealed.*

I. The first section of the said Act of the third and fourth years of Her Majesty's reign, chapter fifty-four, (*a*) is hereby repealed.

Prisoners becoming Insane, Power to Two Justices to inquire, with Medical Aid, respecting such Insanity.—If certified by Justices and such Medical Aid that Prisoner is Insane, Secretary of State may grant Warrant for Removal of Prisoner to a Lunatic Asylum.—If Secretary of State has reason to believe Prisoner sentenced to Death to be Insane he may desire Medical Aid to inquire into the same.—If Prisoner afterwards pronounced Sane, how to be dealt with.

II. If any person while imprisoned in any prison or other place of confinement under any sentence (*b*) of transporta-

(*a*) Sec 3 & 4 Vict. c. 54, s. 1; and Introduction, *ante*, chapter III.

(*b*) This part of the enactment differs from the former Act (3 & 4 Vict. c. 54, s. 1) in omitting "death," and including "penal servitude;" but as to persons under sentence of "death," special provision is made in a subsequent clause of the same section: see below; and Introduction, *ante*, chapter III.

tion, penal servitude, or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any other than civil process, shall appear to be insane, it shall be lawful, if such person is confined in a prison to which visiting justices are appointed, (*c*) for two or more of the visiting justices of such prison, (*c*) or if such person is in any other place of confinement, for two or more justices of the peace of the county, city, borough, or place in which such place of confinement is situate, and such visiting or other justices are hereby required to call to their assistance two physicians or surgeons, or one physician and one surgeon, duly registered as such respectively under the provisions of an Act passed in the session of the twenty-first and twenty-second years of Her Majesty's reign, chapter ninety, and to be selected by them for that purpose, and to inquire with their aid as to the insanity of such person; and if it shall be duly certified by such justices, or any two of them, and such physicians or surgeons, or such physician and surgeon, that such person is insane, one of Her Majesty's principal Secretaries of State may, upon receipt of such certificate, if he shall think fit, direct by warrant under his hand that such person shall be removed to such lunatic asylum or other proper receptacle for insane persons as the said Secretary of State may judge proper and appoint; and if at any time it shall be made to appear to one of Her Majesty's principal Secretaries of State that there is good reason to believe that any prisoner in confinement under sentence of death (*d*) is then insane, either by means of a certificate in writing to that effect in the form given in schedule A, transmitted to him by two or more of the visiting justices of the prison in which such prisoner under sentence of death is confined, or by any other means whatsoever, such Secretary of State shall appoint two or more physicians or surgeons, duly registered as aforesaid, to inquire as to the insanity of

(*c*) See s. 3, *post*.

(*a*) It will be observed that special provision is here made for the case of persons under sentence of death: whilst the former Act (3 & 4 Vict. c. 54, s. 1) prescribed the same mode of proceeding for all cases. See note (*b*) on preceding page; and see also the case of *Reg.* v. *Visiting Justices of Lewes Prison* (note (*d*) to 3 & 4 Vict. c. 54, s. 2, *ante*).

such prisoner; and if on such inquiry the prisoner shall be found to be then insane, the fact shall be certified in writing by such persons to the said Secretary of State, and on the receipt of such certificate the said Secretary of State shall direct by warrant under his hand that such prisoner shall be removed to such lunatic asylum or other proper receptacle for insane prisoners as aforesaid; and every person so removed under this Act, or already removed and in custody under any former Act relating to insane prisoners not under civil process, shall remain in confinement in such asylum or other proper receptacle as aforesaid, or in any other lunatic asylum or other proper receptacle to which such person may be removed by any like warrant which the Secretary of State is hereby empowered to issue, if he shall think fit, until it shall be duly certified to the said Secretary of State by two physicians or surgeons, or one physician and one surgeon, duly registered as aforesaid, that such person is sane, and upon the receipt of such last-mentioned certificate the said Secretary of State is hereby authorised to issue a warrant under his hand directing, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged, or if such person shall still remain subject to be continued in custody, that he or she shall be removed to any prison or other place of confinement, in which he or she may be lawfully confined, to undergo his sentence of death or other sentence, or, if not under sentence, to be dealt with according to law as if no such warrant for his removal to a lunatic asylum had been issued: provided that nothing in this Act contained shall be construed to repeal the thirty-eighth section of the Act of the sixteenth and seventeenth years of Her Majesty's reign, chapter ninety-six, or any part thereof. (*e*)

Prisons placed under Directors of Convict Prisons to be deemed Prisons to which Visiting Justices are appointed, and Directors to be deemed the Visiting Justices.

III. All prisons which now are or may hereafter be placed under the government of the directors of convict prisons, by virtue of the Act of the thirteenth and fourteenth years of Her Majesty's reign, chapter thirty-nine, or of any other Act now

(*e*) 16 & 17 Vict. c. 96, s. 38, *ante*.

in force (*f*) or which may hereafter be passed, shall for the purposes of this Act be deemed to be prisons to which visiting justices are appointed, and the said directors shall be deemed the visiting justices thereof, and the duties and powers hereinbefore imposed upon and given to any two or more of such visiting justices shall and may be performed and exercised by any one or more of such directors. (*g*)

Provisions of 3 & 4 *Vict. c.* 54, *not hereby repealed, and of* 23 & 24 *Vict. c.* 75, *to apply to this Act.*

IV. All the provisions of the first-mentioned Act, (*h*) which are not hereby repealed, and all the provisions of an Act passed in the session of the twenty-third and twenty-fourth years of her Majesty's reign, intituled "An Act to make better Provision for the Custody and Care of Criminal Lunatics," (*i*) shall apply to lunatics removed under this Act in all respects as if they had been removed under the first section of the first-mentioned Act, and as if the asylum to which they were removed under this Act were any asylum for criminal lunatics to which the provisions of the said Act of the twenty-third and twenty-fourth years of Her Majesty's reign were applicable.

The Charge and Maintenance of Insane Prisoners to be borne by the Common Fund of the Union.

V. Where any order shall have been or shall hereafter be made upon the guardians of any union formed under the provisions of the Act fourth and fifth William the Fourth, chapter seventy-six, for the payment of money under section two of the said first-mentioned Act, (*j*) the amount which shall be paid under such order shall be charged by the guardians upon the common fund of the union, and not to the account of any parish therein; (*k*) and the power given

(*f*) See 16 & 17 Vict. c. 121.
(*g*) See s. 2, *ante*.
(*h*) 3 & 4 Vict. c. 54, *ante*.
(*i*) 23 & 24 Vict. c. 75, *ante*.
(*j*) 3 & 4 Vict. c. 54, s. 2, *ante*.
(*k*) The provisions of 24 & 25 Vict. c. 55, s. 6, *ante*, do not apply to criminal lunatics; but the present enactment renders their maintenance a charge upon the common fund, like that of pauper lunatics. It will be observed, however, that the present enactment is confined to unions formed under 4 & 5 Wm. iv. c. 76; though the 24 & 25 Vict. c. 55, s. 6, is not so limited.

to the justices to order the seizure and sale of the goods and chattels, or the receipt of the rents of the lands or tenements, of any insane person therein referred to, (*l*) shall cease as regards the overseers, but shall apply to the guardians of the union who shall have incurred any expenses under any such order of justices as aforesaid.

So much of Sect. 5 *of* 3 & 4 *Vict. c.* 54, *as enables Overseers to appeal, repealed.*

VI. So much of section five of the said first-mentioned Act (*m*) as enables the overseers of any parish in a union (*n*) to appeal against an order of justices adjudicating as to the settlement of any insane person is hereby repealed.

Extent of Act.

VII. This Act shall extend to England and Wales only.

SCHEDULE (A).

We being Visiting Justices of hereby certify under our hands that we believe a Prisoner in the said Prison of under Sentence of Death, to be now insane.

(*l*) See the last clause of s. 2 of 3 & 4 Vict. c. 54, *ante*.

(*m*) 3 & 4 Vict. c. 54, s. 5, *ante*.

(*n*) The word "union," as used in this section, appears to be confined to unions formed under 4 & 5 Wm. iv. c. 76. See s. 5 of the present Act, *ante;* as well as 3 & 4 Vict. c. 54, s. 2, *ante*, and s. 5, *ante*, and the notes thereon.

29 & 30 VICT. C. 109.

An Act to make Provision for the Discipline of the Navy.

[10*th August*, 1866.

Where Persons are Insane at the time of Offence or Trial.

LXVIII. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the Admiralty thereupon are known, and it shall be lawful for the Lords of the Admiralty to give orders for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as they shall think fit.

In case of Insanity, Prisoners to be removed to some Lunatic Asylum.

LXXX. If any person imprisoned by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the Admiralty shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment; and if any such person shall in the same manner be certified to be again of sound mind, the Admiralty may issue a warrant for his being removed to such prison or place of confinement as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

30 VICT. C. 12.

An Act to amend the Law relating to Criminal Lunatics.

[12*th April*, 1867.

WHEREAS it is expedient to amend the law relating to criminal lunatics: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

I. This Act may be cited for all purposes as "The Criminal Lunatics Act, 1867."

Definition of Criminal Lunatic.

II. "Criminal Lunatic" shall mean for the purposes of this Act any of the persons following; that is to say,

1. Any person for whose safe custody during Her pleasure Her Majesty is authorised to give order:
2. Any person whom one of Her Majesty's principal Secretaries of State is authorised by law to direct to be removed to a lunatic asylum under any Act of Parliament:
3. Any person sentenced or ordered to be kept in penal servitude who may be shown to the satisfaction of the Secretary of State to be unfit from imbecility of mind for penal discipline.

Application of Act.

III. This Act shall not apply to Scotland or Ireland.

General Application of ss. 9 *and* 10 *of* 23 & 24 *Vict. c.* 75.

IV. The enactments contained in the ninth (*a*) and

(*a*) See 23 & 24 Vict. c. 75, s. 9, *ante;* and the Twenty-first Report of the Commissioners in Lunacy (1867), p. 14.

tenth (*b*) sections of the Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter seventy-five, relating to the following matters:—

1. To the power of the Secretary of State to permit a lunatic to be absent from the asylum on trial:
2. To the expenses of conveyance and maintenance of criminal lunatics:

shall apply to a criminal lunatic in whatever asylum or place of confinement he may be, and to such asylum and place of confinement, so far as regards such lunatic, in the same manner as if such asylum or place of confinement were an asylum appropriated to criminal lunatics in pursuance of the last-mentioned Act.

Power of Secretary of State to give conditional Order of Discharge.

V. It shall be lawful for one of Her Majesty's principal Secretaries of State to discharge absolutely or conditionally any criminal lunatic.

Where any criminal lunatic has been discharged conditionally, if any of the conditions of such discharge are broken, the said Secretary of State may by warrant, to be executed by any constable or other peace officer to whom such warrant is delivered, direct such person to be taken into custody, and to be conveyed to the place in which he was detained at the time of his discharge, or to any other place to which he might have been removed if no order for his discharge had been given, and any person so taken into custody shall revert in all respects to the same position as he was in at the time when the order of discharge was given, and shall be subject to be detained accordingly.

Criminal Lunatic may be removed to a County Asylum on Expiration of his Sentence.

VI. The eighth section of the said Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter seventy-five, shall be repealed, (*c*)

(*b*) See 23 & 24 Vict. c. 75, s. 10, *ante;* and the Twenty-first Report of the Commissioners in Lunacy (1867), p. 14.

(*c*) See 23 & 24 Vict. c. 75, s. 8, *ante;* and the Twenty-first Report of the Commissioners in Lunacy (1867), pp. 14, 15.

and in place thereof be it enacted: where the term of punishment awarded to any criminal lunatic confined in any asylum or other place of confinement for criminal lunatics expires before such evidence of his sanity has been given as justifies his being discharged, (*d*) the following consequences shall ensue; that is to say,

1. If such lunatic be confined in any asylum or place of confinement to which lunatics may be sent in pursuance of the Lunatic Asylums Act, 1853, he shall thenceforth be deemed to be a pauper lunatic, and shall be in the same position in all respects as if he were a lunatic who immediately previous to the expiration of his term of punishment had been found wandering at large within the parish or place where the offence was committed in respect of which he became a criminal lunatic, and had been directed by a justice, in pursuance of the sixty-eighth section of the Lunatic Asylums Act, 1853, (*e*) to be received into the said asylum or place of confinement as a lunatic wandering at large, and a proper person to be taken charge of and detained under care and treatment:
2. If such lunatic be confined in any asylum or place of confinement to which lunatics cannot be sent in pursuance of the said Lunatic Asylums Act, 1853, the said Secretary of State may, (*f*) by order under his hand, direct the lunatic to be received into any asylum or place of confinement for lunatics into which a justice might have directed him to be received in pursuance of the said sixty-eighth section of the Lunatic Asylums Act, 1853, (*e*) if immediately previous to the date of the expiration of his term of punishment the lunatic had been found wandering at large within the parish or place where the offence was committed in respect of which he became a criminal lunatic, and the justice had been satisfied that the

(*d*) See 32 & 33 Vict. c. 78, *post*.

(*e*) See 16 & 17 Vict. c. 97, s. 68, *ante*.

(*f*) The word "may," as here used, seems to leave it to the discretion of the Secretary of State to determine whether he will order the removal of the lunatic to an asylum or not. See the Twenty-second Report of the Commissioners in Lunacy (1868), p. 250.

lunatic was a proper person to be taken charge of and detained under care and treatment; and any order made by the said Secretary of State in pursuance of this section shall have the same effect, and be obeyed by the same persons, and subject them to the same penalties in case of disobedience, as an order made by a justice for the reception of a lunatic into an asylum or other place of confinement for lunatics in pursuance of the said sixty-eighth section of the said Lunatic Asylums Act, 1853; (*g*) and such lunatic when received into the said asylum or place of confinement shall thenceforth be deemed to be a pauper lunatic, and shall be in the same position in all respects as if he had been such wandering lunatic as aforesaid directed to be received into the said asylum or place of confinement in pursuance of the said order of a justice.

(*g*) See 16 & 17 Vict. c. 97, s. 68, *ante*.

32 & 33 Vict. c. 78.

An Act to amend the Law relating to Criminal Lunatics.

[*9th August*, 1869.

30 & 31 *Vict. c.* 12.

Whereas by the sixth section of "The Criminal Lunatics Act, 1867," it is enacted, "that where the term of punishment awarded to any criminal lunatic confined in any asylum or other place of confinement for criminal lunatics expires before such evidence of his sanity has been given as justifies his being discharged, such consequences shall ensue as are thereinafter mentioned:" And whereas doubts are entertained whether such section extends to criminal lunatics whose terms of punishment have expired previously to the passing of the said Act, and it is expedient to remove such doubts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short Title.

I. This Act may be cited as "The Criminal Lunatics Act, 1869."

Application of Sect. 6 *of* 30 & 31 *Vict. c.* 12.

II. It is hereby declared that the sixth section of the Criminal Lunatics Act, 1867, (*a*) does apply and shall be deemed to have applied from the date of the passing thereof to criminal lunatics whose terms of punishment expired before the date of the passing of such Act in the same manner,

(*a*) See 30 & 31 Vict. c. 12, s. 6, *ante*.

so far as circumstances admit, as if their terms of punishment had expired subsequently to the passing of such Act, and all orders made and acts done previously to the passing of this Act in respect of or to criminal lunatics whose terms of punishment expired before the passing of the said Criminal Lunatics Act, 1867, shall be valid accordingly; but no parish or place upon which any order may have been or shall be made for, or which shall be otherwise chargeable with, the maintenance of any criminal lunatic under the sixth section of the said Act shall be liable to make good or refund any sum of money which may have been theretofore expended by any other parish or place on account of the maintenance of such lunatic.

CHAPTER IV.

The Commissioners in Lunacy.

By the first Act for regulating madhouses (14 Geo. III. c. 49), passed in 1774 (*ante*, p. 37), the College of Physicians was required to elect five Fellows to act as Commissioners for licencing and inspecting these establishments within the cities of London and Westminster, and seven miles thereof, and the county of Middlesex; the duties of licencing and visiting in the rest of the country being confided to the justices of the peace. This Act (a temporary one) was continued by 19 Geo. III. c. 15, and 26 Geo. III. c. 91; but repealed in 1828 by 9 Geo. IV. c. 41, in consequence of the report of the Committee of the House of Commons in 1827 (*ante*, p. 295). The last mentioned Act (limited to three years) empowered the Home Secretary to appoint every year fifteen Commissioners (five being physicians) for licencing and visiting within the Metropolitan district; and in 1832, on the expiration of 9 Geo. IV. c. 41, an Act was passed (2 & 3 Wm. IV. c. 107), which authorized the Lord Chancellor to appoint annually the "Metropolitan Commissioners in Lunacy" (*ante*, p. 37). That Act, passed for three years, was amended, and renewed by 3 & 4 Wm. IV. c. 64; 5 & 6 Wm. IV. c. 22; 1 & 2 Vict. c. 73; 5 Vict. c. 4; and 5 & 6 Vict. c. 87; and by the last-named Act, passed in 1842, the Metropolitan Commissioners were empowered to inspect all the public and private asylums throughout England and Wales. All these Acts were repealed in 1845 by 8 & 9 Vict. c. 100, which constituted the Board of "Commissioners in Lunacy."

By 8 & 9 Vict. c. 100, eleven Commissioners were appointed by name, three of whom were physicians, and three barristers;—future vacancies to be filled up

by the Lord Chancellor. The six medical and legal Commissioners are paid; as also the secretary and clerks; but the permanent chairman is unpaid (8 & 9 Vict. c. 100, ss. 3, 4, 5, 8, 9, 10, 11; 16 & 17 Vict. c. 96, s. 39). Every Commissioner, secretary, and clerk is to take an oath of fidelity and secrecy (8 & 9 Vict. c. 100, ss. 6, 12), and is not to be interested in any licenced house, or to sign certificates (*ibid.* s. 23). The Commissioners have a common seal, for sealing their licences and orders (*ibid.* s. 7).

The moneys received for licences, searches, and penalties are to be applied towards the expenses of the commission; an annual account being submitted to the Treasury, and laid before Parliament (*ibid.* ss. 33, 34, 84, 102, 106). It was also provided that any deficiency should be paid out of the Consolidated Fund (*ibid.* s. 35, now repealed); but an Act of 1854, relating to the public revenue (17 & 18 Vict. c. 94, *post*), enacts that any such deficiency shall be submitted to Parliament for a special vote, instead of being paid out of the Consolidated Fund.

The Commissioners may make rules for their own duties, and those of their officers (8 & 9 Vict. c. 100, s. 70). They are to make periodical returns to the Lord Chancellor of visits made, patients seen, miles travelled, and sums received; and in March, every year, a general report; all to be laid before Parliament. (8 & 9 Vict. c. 100, s. 88; 16 & 17 Vict. c. 96, s. 32.)

Their powers and duties, the extent of their "immediate jurisdiction" (*ante*, p. 44), their meetings for granting licences, their proceedings as to the visitation and regulation of asylums and other establishments, and the other matters which come under their cognizance, have been noticed under the appropriate headings in the preceding chapters of this Introduction. Their Sixteenth Report, 1862, pp. 72-74, contains a general account of their labours; while the results are exhibited in the entire series of their valuable and important reports.

IV. Statutes relating to the Commissioners in Lunacy. (*a*)

		PAGE
8 & 9 Vict. c. 100	4 Aug. 1845	182
16 & 17 Vict. c. 70	15 Aug. 1853	111
16 & 17 Vict. c. 96	20 Aug. 1853	264
16 & 17 Vict. c. 97	20 Aug. 1853	336
17 & 18 Vict. c. 94	10 Aug. 1854	627
18 & 19 Vict. c. 105	14 Aug. 1855	470
22 Vict. c. 26	19 Apr. 1859	631
23 & 24 Vict. c. 75	6 Aug. 1860	602
25 & 26 Vict. c. 86	7 Aug. 1862	166
25 & 26 Vict. c. 111	7 Aug. 1862	481
26 & 27 Vict. c. 110	28 July 1863	512

(*a*) See Introduction, chapter IV., *ante*, pp. 624, 625.

17 & 18 Vict. c. 94.

An Act to alter the Mode of providing for certain Expenses now charged upon certain Branches of the Public Revenues and upon the Consolidated Fund.

[10*th August*, 1854.

Whereas the several charges and payments described in the schedule (A) to this Act are charged, by various Acts of Parliament or otherwise, upon certain branches of the public revenue: and whereas certain other charges and payments described in the schedule (B) to this Act are also charged by the like authorities upon the said revenue and upon the Consolidated Fund respectively: and whereas it is expedient, in order to bring the gross income and expenditure of the United Kingdom and the Isle of Man under the more immediate view and control of Parliament, that such charges and payments should be otherwise provided for, as hereinafter mentioned, and that the financial accounts should be prepared and payments regulated with reference to the periods for which supplies are now commonly granted by Parliament: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Charges in Schedule (A) *to be payable out of the Consolidated Fund; and charges in Schedule* (B) *to be paid out of Aids, etc., voted by Parliament, except in certain cases.—Charges to be defrayed as heretofore up to the passing of the Act.*

I. From and after the first day of April, one thousand eight hundred and fifty-four, the several charges and payments described in the schedules (A) and (B) to this Act,

and which, under the Acts and authorities in the same schedules respectively referred to, are charged on or made payable out of the several branches of the public revenue in such schedules mentioned, or on or out of the monies in the hands of commissioners or collectors or other receivers of such revenues, or otherwise now charged on or payable out of all or any parts of such revenue respectively, or on or out of the Consolidated Fund of the United Kingdom, shall cease to be so charged and payable; and such of the said charges and payments as are described in the said schedule (A) shall be charged on and payable out of the said Consolidated Fund; and such of the said charges and payments as are described in the said schedule (B) shall be paid out of such aids or supplies as may be from time to time provided and appropriated by Parliament for the purpose: provided always, that where the salary of any office holden for life or during good behaviour is fixed by or under any Act of Parliament, and charged on or payable out of the said Consolidated Fund, or payable out of the gross produce of customs and excise under the Act of the seventh year of Queen Anne, chapter eleven, the act of the tenth year of Queen Anne, chapter twenty-six, and subsequent Acts, nothing herein contained shall, so long as the present holder of such office continues to hold the same, affect the charge on the said Consolidated Fund, or the payment out of the gross produce of customs and excise, of the salary which at the time of the passing of this Act is payable in respect of such office: provided also, that in the event of any payment being made out of the said revenues, or out of the Consolidated Fund, before the passing of this Act, on account of any of the services described in the said schedules for any period subsequent to the said first day of April, one thousand eight hundred and fifty-four, the same shall be repaid to the said revenues, or to the Consolidated Fund, as the case may be, out of the Consolidated Fund, or out of monies which may be provided by Parliament for such services for the year one thousand eight hundred and fifty-four--five.

Charges in Schedule (B) *may be paid on the new Quarter Days.*

VI. It shall be lawful for the Commissioners of Her Majesty's Treasury, if and where they see fit, to cause all or any of the said charges and payments described in the said

schedule (B) now payable on any other quarterly days than the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, to be paid on such last-named days, or where any such charges or payments are payable yearly or half-yearly on any other than some of such days, to cause the same to be paid on one or two (as the case may require) of such days as aforesaid; and where the days of payment of any such charge or payment are altered as aforesaid, the said Commissioners shall cause such deduction to be made from the payment to be made on the first of the substituted days of payment of such sum as shall be proportionate to the period by which such payment is accelerated.

Fees applicable towards the Payment of Charges in Schedule (B) *to be carried to Consolidated Fund.*

VII. Where any of the charges and payments described in the said schedule (B) are by law payable out of or charged upon any fees or other casual receipts, and are payable out of the said Consolidated Fund only in the event and to the extent of any deficiency of such fees or other casual receipts, such fees or other casual receipts shall from and after the said first day of April, one thousand eight hundred and fifty-four, in such cases as the Commissioners of the Treasury may think fit and direct, cease to be applicable to such charges or payments, and be from time to time paid into the receipt of the Exchequer, and be carried to and form part of the said Consolidated Fund, in which case the entire charges shall be provided for out of monies to be granted by Parliament; but until such fees or other casual receipts shall be paid into the receipt of the Exchequer, in pursuance of any direction of the Commissioners of the Treasury, the same shall continue applicable to such charges or payments, and such charges or payments shall be paid out of aids or supplies to be from time to time provided and appropriated by Parliament only in the event and to the extent of any deficiency in such fees or casual receipts.

Treasury may make Regulations, etc.

VIII. It shall be lawful for the Commissioners of Her Majesty's Treasury from time to time to make such rules and regulations, and issue such orders concerning the form

and mode of transmission of certificates and vouchers, and otherwise for checking, controlling, and regulating the payment of the charges transferred to the Consolidated Fund by this Act, and for enforcing and regulating the accounting for and due payment of the monies to be carried to the Consolidated Fund under this Act, as they may think fit; and a return of any such rules and regulations which may be issued by the Commissioners of Her Majesty's Treasury shall be laid before Parliament within six weeks from the date of the issue thereof, if Parliament be then sitting, and if not then sitting, within six weeks from the day of the next ensuing meeting of Parliament.

SCHEDULE (B).

SCHEDULE OF SALARIES AND PAYMENTS charged under various Acts of Parliament upon or payable out of the Consolidated Fund, and the several Branches of the Public Revenues, to be provided for by ANNUAL VOTES, or otherwise as prescribed in Clauses 1 and 7.

Now charged on Consolidated Fund.	Contingent Expenses of the Lunacy Commissioners.	8 & 9 Vict. c. 100. (*a*)

(*a*) See 8 & 9 Vict. c. 100, s. 35, now repealed.

22 VICT. C. 26.

An Act to amend the Laws concerning Superannuations and other Allowances to Persons having held Civil Offices in the Public Service.

[19*th April*, 1859.

Acts in Schedule to be construed as referring to this Act.

XV. The several sections mentioned in the schedule hereto of the several Acts of Parliament, also therein mentioned, shall be construed as if this Act, instead of the said Act of the fourth and fifth years of the reign of King William the Fourth, had been referred to in the said sections; and such other enactments as refer to the scale of superannuation allowance established by the provisions hereby repealed of the said Act of King William the Fourth shall be construed as if the scale established by this Act had been referred to.

SCHEDULE (A).

* * * *

8 & 9 Vict. c. 100, ss. 5, 10.

STATUTES PRINTED.

	PAGE
17 Edw. 2, st. 1, c. 11	95
17 Edw. 2, st. 1, c. 12	96
2 & 3 Edw. 6, c. 8, s. 3	97
39 & 40 Geo. 3, c. 94	579
4 & 5 Will. 4, c 76, s. 45	518
1 & 2 Vict. c. 14	583
3 & 4 Vict. c. 54	587
6 & 7 Vict. c. 26, s. 21	596
7 & 8 Vict. c. 101, ss. 25, 27	525
8 & 9 Vict. c. 100	182
12 & 13 Vict. c. 82, s. 2	337
12 & 13 Vict. c. 103, ss. 3, 4, 16	527
13 & 14 Vict. c. 101, s. 5	529
14 & 15 Vict. c. 81	597
15 & 16 Vict. c. 48	261
15 & 16 Vict. c. 87, s. 15	160
16 & 17 Vict. c. 70	98
16 & 17 Vict. c. 96	264
16 & 17 Vict. c. 97	336
17 & 18 Vict. c. 94	627
17 & 18 Vict. c. 114	468
18 & 19 Vict. c. 13	162
18 & 19 Vict. c. 105	470
19 & 20 Vict. c. 15, s. 9	531
19 & 20 Vict. c. 87	480
19 & 20 Vict. c. 120, s. 36	164
22 Vict. c. 26	631
22 & 23 Vict. c. 49, ss. 1, 4, 7	535
23 & 24 Vict. c. 75	602
23 & 24 Vict. c. 127, s. 29	165
24 & 25 Vict. c. 55, ss. 6, 7	537
25 & 26 Vict. c. 86	166
25 & 26 Vict. c. 104, s. 5	611
25 & 26 Vict. c. 111	481
26 & 27 Vict. c. 110	512
27 & 28 Vict. c. 29	612
28 & 29 Vict. c. 79, s. 1	539
28 & 29 Vict. c. 80	515
29 & 30 Vict. c. 109, ss. 68, 80.	617
30 & 31 Vict. c. 6, s. 30	540
30 & 31 Vict. c. 12	618
30 & 31 Vict. c. 87, s. 13	100
30 & 31 Vict. c. 106, ss. 22, 23	521
31 & 32 Vict. c. 122	523
32 & 33 Vict. c. 78	622
32 & 33 Vict. c. 91, s. 13	108
34 & 35 Vict. c. 14, s. 2	517
36 & 37 Vict. c. 66, ss. 17, 18	179
38 & 39 Vict. c. 77, s. 7	180
39 & 40 Vict. c. 61, ss. 20, 23, 26	532

STATUTES CITED.

	PAGE
17 Edw. 2, st. 1, c. 1	95
c. 2	95
c. 3	95
c. 4	95
c. 5	95
c. 6	95
c. 7	95
c. 8	95
c. 9	8, 95
c. 14	95
c. 15	95
43 Eliz. c. 2, s. 6.	432, 538
8 & 9 Will. 3, c. 30, s. 3	439
7 Anne, c. 2	628
10 Anne, c. 26	628
1 Geo. 1, st. 2, c. 10	94
	137, 147
5 Geo. 2, c. 19	437
13 Geo. 2, c. 18	437
15 Geo. 2, c. 30	157
17 Geo. 2, c. 5	295
s. 20	571, 572
s. 21	572
24 Geo. 2, c. 44	88
14 Geo. 3, c. 49	38, 46, 624
19 Geo. 3, c. 15	624
22 Geo. 3, c. 83	420, 449
26 Geo. 3, c. 91	624
48 Geo. 3, c. 96	252, 295,
	296, 450, 572
s. 27	571
51 Geo. 3, c. 37	157
51 Geo. 3, c. 79	296, 572
55 Geo. 3, c. 46	296, 572
56 Geo. 3, c. 117	572, 593
59 Geo. 3, c. 12, s. 26	432
59 Geo. 3, c. 127	296, 572
5 Geo. 4	527
5 Geo. 4, c. 71	296, 572
6 Geo. 4, c. 53	97, 159
9 Geo. 4, c. 40	296, 384,
	420, 421,
	449, 450, 572, 593
s. 1	593
s. 7	594
s. 38	91
s. 54	573,
	593, 594
s. 55	593
9 Geo. 4, c. 41	46, 252, 624
11 Geo. 4, and 1 Will. 4, c. 65	
	137, 193, 263
s. 25	137, 147
s. 41	159
11 Geo. 4, and 1 Will. 4, c. 70,	
s. 35	193
1 Will. 4, c. 65	159, 160
s. 25	137,
	147, 159, 263
2 & 3 Will. 4, c. 107	38,
	46, 182, 190, 624
3 & 4 Will. 4, c. 36	17, 111,
	112, 159
3 & 4 Will. 4, c. 64	182, 624
3 & 4 Will. 4, c. 84	160
4 & 5 Will. 4, c. 24	186, 189
4 & 5 Will. 4, c. 47	193
4 & 5 Will. 4, c. 76	325, 384,
	448, 449, 536, 574,
	590, 593, 615, 616
s. 26	539
s. 38	433
s. 56	422, 432
s. 57	432
s. 58	432
s. 59	432
s. 78	432
s. 109	536,
	537, 538
5 & 6 Wm. 4, c. 22	182, 624

PAGE

5 & 6 Wm. 4, c. 76 . 337, 343
s. 1 . 337
s. 105. 201
s. 117. 506
6 & 7 Wm. 4, c. 86 . . 413
s. 19 . 213
s. 20 . 213
s. 25 . 213
s. 29 . 415
7 Wm. 4, and 1 Vict. c. 22. 413
1 & 2 Vict. c. 73 . 183, 624
5 Vict. c. 4 . . 183, 624
5 & 6 Vict. c. 35, s. 62 . 360
5 & 6 Vict. c. 57, s. 6 384, 449
5 & 6 Vict. c. 84 17, 102, 104, 160, 184
s. 10 104, 160
s. 12 . 160
s. 16 . 160
5 & 6 Vict. c. 87 . 183, 624
5 & 6 Vict. c. 97, s. 2 . 246
5 & 6 Vict. c. 110 . . 516
6 & 7 Vict. c. 26, s. 10 . 596
7 & 8 Vict. c. 101 . . 449
s. 28 384, 449
s. 56 . 427
8 & 9 Vict. c. 18 . 361, 486
s. 81 . 361
8 & 9 Vict. c. 100, s. 25 47, 53
8 & 9 Vict. c. 109 . 167, 168
8 & 9 Vict. c. 113 . . 187
s. 4. . 135
8 & 9 Vict. c. 126 82, 296, 297, 311, 336, 337, 342, 343, 372, 384, 391, 401, 418, 419, 420, 421, 433, 434, 435, 436, 447, 448, 449, 473, 545, 572, 593, 594
s. 47 . 82, 384, 545
s. 49 . 430
s. 55 543, 547
s. 62 . 433
s. 82 . 473
s. 83 . 473
9 & 10 Vict. c. 66 331, 427, 527, 528, 589
s. 1. . 422
s. 4. . 428
9 & 10 Vict. c. 84 . 296, 336
10 & 11 Vict. c. 43 . 296, 336

PAGE

10 & 11 Vict. c. 96 . 430, 526
11 & 12 Vict. c. 31 . . 439
s. 4. . 437
11 & 12 Vict. c. 43 . 444, 530
s. 11 . 397
s. 35 . 530
11 & 12 Vict. c. 110, s. 3 . 427
s. 8 432, 527, 538
11 & 12 Vict. c. 111, s. 1 . 428
12 & 13 Vict. c. 45 . . 439
12 & 13 Vict. c. 82, s. 3 . 506
12 & 13 Vict. c. 103, s. 5 426, 427, 429
13 & 14 Vict. c. 21, s. 5 384, 506
13 & 14 Vict. c. 39 . . 614
13 & 14 Vict. c. 43, s. 23 . 101
13 & 14 Vict. c. 60 17, 94, 103, 137, 152, 160
14 & 15 Vict. c. 23 . . 373
14 & 15 Vict. c. 99 . . 187
s. 6. 210, 212, 214, 215, 216, 221, 222
s. 17 . 135
15 & 16 Vict. c. 48, ss. 1, 2, 3 160
s. 4. . 22
s. 7. . 22
15 & 16 Vict. c. 55 94, 137, 152
15 & 16 Vict. c. 86, ss. 22-24 119, 120
15 & 16 Vict. c. 87 . . 160
s. 15 94, 137, 160
s. 30 104, 160
s. 46 . 105
s. 47 . 105
16 & 17 Vict. c. 66, s. 22 . 34
16 & 17 Vict. c. 121 . . 615
17 & 18 Vict. c. 35 . . 516
20 Vict. c. 19 . . . 448
20 & 21 Vict. c. 37 . 186, 189
20 & 21 Vict. c. 77, s. 73 . 430
21 & 22 Vict. c. 25 . . 414
21 & 22 Vict. c. 90 . 508, 613
s. 36 379, 450
21 & 22 Vict. c. 106 . . 598
22 Vict. c. 21 . . . 508
23 & 24 Vict. c. 7 . . 508
23 & 24 Vict. c. 66 . . 508
24 & 25 Vict. c. 55, ss. 1-3 428, 528

	PAGE
24 & 25 Vict. c. 55, s. 8	428
24 & 25 Vict. c. 76	312
25 & 26 Vict. c. 43	328, 523
s. 10	523
25 & 26 Vict. c. 96, s. 6	113
25 & 26 Vict. c. 110, s. 2	328
26 & 27 Vict. c. 12	333, 531
26 & 27 Vict. c. 77	530
26 & 27 Vict. c. 125	95
28 Vict. c. 37	448
28 & 29 Vict. c. 79	454, 455
28 & 29 Vict. c. 126, s. 31	588
28 & 29 Vict. c. 127	444
29 & 30 Vict. c. 68, s. 7	105
s. 8	104
30 & 31 Vict. c. 106	556
31 & 32 Vict. c. 40	145
31 & 32 Vict. c. 122	558
s. 4	420
s. 33	530
s. 35	335
32 & 33 Vict. c. 49	444
32 & 33 Vict. c. 60	186, 189
32 & 33 Vict. c. 62	444
32 & 33 Vict. c. 63	335
32 & 33 Vict. c. 91	108, 160, 180
s. 4	108
s. 16	110
s. 19	110
s. 34	108, 110, 203, 240
32 & 33 Vict. c. 102, s. 37	335
33 & 34 Vict. c. 18	335
33 & 34 Vict. c. 35	379
33 & 34 Vict. c. 77, sched.	380
33 & 34 Vict. c. 93, s. 13	530
s. 14	432
34 & 35 Vict. c. 15	335

	PAGE
34 & 35 Vict. c. 22, s. 118	159, 160, 261
34 & 35 Vict. c. 66	378
34 & 35 Vict. c. 70	307, 385
34 & 35 Vict. c. 116	449
35 & 36 Vict. c. 44	134, 177
s. 26	160
36 & 37 Vict. c. 66	14, 15, 16, 179, 180
37 & 38 Vict. c. 34	506
37 & 38 Vict. c. 35	186, 189
37 & 38 Vict. c. 45	448
37 & 38 Vict. c. 81, s. 12	160
37 & 38 Vict. c. 88, ss. 1-8	415
s. 10	414
s. 12	414
s. 14	414
s. 16	506
s. 17	441
s. 20 (2)	414
s. 20 (3)	506
s. 48	414
37 & 38 Vict. c. 96	160, 384, 449, 525, 583, 585, 586, 590, 592, 593, 594, 595, 602
38 & 39 Vict. c. 55	363
38 & 39 Vict. c. 65	335
38 & 39 Vict. c. 77	14, 15, 180
s. 26	19, 110
s. 31	16, 107
1st sched.	180
38 & 39 Vict. c. 87, s. 76	94, 137
s. 77	94, 137
s. 88	94, 137
38 & 39 Vict. c. 89	335
38 & 39 Vict. c. 92, s. 38	137
39 & 40 Vict. c. 17	145
39 & 40 Vict. c. 61, s. 25	527, 538
ss. 40-43	335

CASES CITED.

	PAGE
Adams, in *re*	171
Anderdon *v.* Burrows	88
Ardsley, Reg. *v.*	420
Armstrong, in *re*	156
Arnold, Reg. *v.*	428, 429
Attorney-General *v.* Committee of Visitors of County Lunatic Asylum at Colney Hatch	363
Attorney-General *v.* Parnther	96
,, ,, *v.* Pearson	90
Ayrey *v.* Hill	96
Baker *v.* Billericay Union	536
Ball *v.* Mannin	95
Bannatyne *v.* Bannatyne	96
Barnsley, *ex parte*	96, 97
Barnsley, Reg. *v.*	311
Barton, Reg. *v.*	569
Berry, Reg. *v.*	580
Beverley's case	7
Biddle, in *re*	239
Birmingham *v.* Beaumont	477
Bishopwearmouth, Reg. *v.*	589
Blackmore, in *re*	157
Blackwell, Reg. *v.*	588
Blair, in *re*	96
Bloomer, in *re*	146, 151
Bowmer, in *re*	151, 152
Bradford Union *v.* Cler. Pac. Wilts., 574, 575, 588, 589,	590
Bradshaw *v.* Bradshaw	96
Bramley, Reg. *v.*	420
Breton, Reg. *v.*	360
Bridge, in *re*	97
Brogden *v.* Brown	96
Brookshaw *v.* Hopkins	87
Brown, in *re*	103
Bubb, Reg. *v.*	394
Buckinghamshire Justices, Reg. *v.*	435
Buckley's Trust, in *re*	430
Budd *v.* Foulkes	209
Burbidge, in *re*	526
Burnby, Reg. *v.*	247
Burton, in *re*	100
Cambs. Lunatic Asylum *v.* Fulbourn	360, 487
Cambridge, Reg. *v.*	434
Cambridgeshire Justices, Reg. *v.*	436
Carew *v.* Johnston	96
Cartwright *v.* Cartwright	96
Carysfort, in *re*	96
Child, *ex parte*	267
Clarke, in *re*	96
Clark, *ex parte*	569
Cleaver *v.* the next of kin of M'Kenna	528
Clerk of the Peace for Middlesex *v.* All Saints, Poplar	424
Clerk of the Peace for Somersetshire *v.* Shipham	423
Cler. Pac. York, W. R., Reg. *v.*	584, 585
Cobus, Reg. *v.*	588
Coleman's Trust, in *re*	431
Congreve *v.* Upton	303, 360, 378
Corbett, in *re*	141, 146
Cotton, in *re*	96
Cranmer, *ex parte*	96, 115
Creagh, in *re*	96
Crediton, Reg. *v.*	421
Croft, in *re*	96
Cumming, in *re*	97, 156
Davies, Reg. *v.*	580
Dawson and another, Reg. *v.*	70
Devenish *v.* Brown	358, 361, 444
Dew *v.* Clarke	96
Donegal, case of Lord	95

PAGE

Drummond, in *re* . . 96
Dwerryhouse, Reg. *v.* . . 588
Dyson, R. *v.* . . . 569

East Retford, Reg. *v.* 422, 427, 428
Edwards *v.* Abrey . . 96
Edwards, Reg. *v.* . . 360
Elliott, Reg. *v.* . . . 87
Elsley, Reg. *v.* . . . 568

Faversham, Reg. *v.* . . 421
Fell, in *re* . . 182, 288, 290
Ferne, *ex parte* . . . 97
Finch *v.* York Union . . 640
Fletcher *v.* Fletcher 88, 241, 265, 267, 270
Foster *v.* Marchant . . 96
Foster, Reg. *v.* . . . 360
Frances, Reg. *v.* . . . 569
Frere *v.* Peacocke . . 96
Fust, *ex parte* . . . 97
F——, in *re* . . . 170

Gambier *v.* Lydford . . 360
Gilbert *v.* Buzzard . . 318
Glamorganshire Justices, Reg. *v.* . . 436, 585, 593
Glossop Union, Reg. *v.* . 427
Goode, Reg. *v.* . . . 569
Gordon, in *re* . . . 157
Greenwood, in *re* 267, 288, 290, 433
Groom *v.* Thomas . . 96
Guardians of the Poor of Bristol *v.* Wait . . 360
Guardians of Carnarvon and Anglesea Union, Reg. *v.* 391
Guardians of Newport (Salop), Union, Reg. *v.* . 585, 593
Guardians of Totnes Union, Reg. *v.* 398
Guardians of Wallingford Union, Reg. *v.* . . 360

Hadfield's case . . . 569
Halfhyde *v.* Robinson . . 143
Hall, *ex parte.* . . . 97
Hall *v.* Semple . . 71, 73
Hall *v.* Warren . . . 96
Harrod *v.* Harrod . . 95

PAGE

Harvey *v.* Trenchard . . 173
Hatfield Peverel, Reg. *v.* . 320, 391, 400, 405, 419, 420, 421
Haycock, *ex parte* . . 96
Heaton *v.* Manningham . 432
Heaton, Reg. *v.* . . . 432
Heston *v.* St. Bride's . . 433
Hewson, in *re* . . . 96
Higginson, Reg. *v.* . . 569
Hill *v.* Philp 187, 190, 196, 210, 212, 214, 215, 216, 221, 222
Hill, Reg. *v.* . 75, 214, 271
Hoblyn, in *re*, *ex parte* Peter 113
Hodges, Reg. *v.* . . . 569
Holmes' case . . . 96
Holylands, in *re* . . . 96
Hook, Reg. *v.* . . . 394
Hunslet *v.* Dewsbury Union 428

Ives, in *re* 153

Jones *v.* Mersey Docks and Harbour Board . . 360
Jones, R. *v.* . 267, 270, 272
Justices of Berkshire, Reg. *v.* 572
,, Buckinghamshire, Reg. *v.* 435
Justices of Cambridgeshire, Reg. *v.* 436
Justices of Cornwall, Reg. *v.* 420, 421
,, Derbyshire, Reg *v.* 245
,, Glamorganshire, Reg. *v.* . . 436, 585, 593
Justices of Kent, Reg. *v.* . 434
,, Lancashire, Reg. *v.* 433, 434
,, Middlesex, Reg. *v.* 198, 433
,, Salop, Reg. *v.* 198, 435
,, Shropshire, Reg. *v.* 436, 445
,, Staffordshire, Reg. *v.* 438
,, Warwickshire, Reg. *v.* 421, 434
Justices of York (W. R.), Reg. *v.* 433

Kendal *v.* King . . 358, 444
Kettering Union *v.* Northampton Asylum 419, 423, 434, 445

PAGE
Knight, in *re* . . . 250
Knowles *v.* Trafford . . 427

Lady Stair, in *re* . . . 157
Lake, Reg. *v.* . . . 360
Lancashire Justices, Reg. *v.* 433, 434
Langham, in *re* . . . 116
Layton, Reg. *v.* . . . 569
Leaden Roothing, Reg. *v.* 429, 589
Leatham *v.* Bolton-le-Sands . 420
Leeds, Reg. *v.* . . . 429
Leeds *v.* Wakefield . 428, 429
Lineham, in *re* . . . 96
Little, R. *v.* . . . 580
Liverpool, Reg. *v.* . 419, 437
Lord Donegal's ease . . 95
Loveday, *ex parte* . 156, 157

Maefarlane, in *re* . . . 171
MeNaughten's ease . . 567
Maddock and Perfeet, Reg. *v.* 74, 279
Manchester, Reg. *v.* 428, 433, 437
Marriott, Reg. *v.* . 84, 394
Medway Union, Reg. *v.* . 434
Mersey Doeks and Harbour Board *v.* Cameron . . 360
Mile End Old Town *v.* Findlay 431
Minster, Reg. *v.* 401, 418, 420, 433, 461
Moffat *v.* Dickson . . 358
Mudway *v.* Croft . . 96

Newchurch, Reg. *v.* . . 423
Newport (Salop) Union, Reg. *v.* 585, 593
Norris *v.* Seend . . 241, 267
Nottidge *v.* Ripley and Nottidge 266

Overseers of Old Hutton, *ex parte* 591
Oxford, case of . . . 572

Parke's Trusts, in *re* . . 151
Pearce, in *re*, *ex parte* Clark . 569
Pearee, Reg. *v.* . . . 569
Pegge *v.* Lampeter Union . 589
Pelham, Reg. *v.* . . . 83
Peter, *ex parte* . . . 113

PAGE
Pinder, Reg. *v.*, in *re* Greenwood . 267, 288, 290, 433
Porter, Reg. *v.* . 86, 87, 271
Priest Hulton, Reg. *v.* . . 429
Pritehard, R. *v.* . . . 569
Pugh, in *re* 141

Reg. *v.* Ardsley . . . 420
,, Arnold . . 428, 429
,, Barnsley . . . 311
,, Barton . . . 569
,, Berry . . . 580
,, Bishopwearmouth . 589
,, Blaekwell . . 588
,, Bramley . . . 420
,, Breton . . . 360
,, Bubb . . . 394
,, Buekinghamshire Justiees 435
Reg. *v.* Burnby . . . 247
,, Cambridge . . 434
,, Cambridgeshire Justiees 436
Reg. *v.* Cler. Pae. York, W. R. . . . 584, 585
Reg. *v.* Cobus . . . 588
,, Crediton . . . 421
,, Davies . . . 580
,, Dawson and another 70
,, Dwerryhouse . . 588
,, East Retford 422, 427, 428
,, Edwards . . . 360
,, Elliott . . . 87
,, Elsley . . . 568
,, Faversham . . 421
,, Foster . . . 360
,, Frances . . . 569
,, Glamorganshire Justiees . 436, 585, 593
,, Glossop Union . 427
,, Goode . . . 569
,, Guardians of Carnarvon and Anglesea Union 391
Reg. *v.* Guardians of Newport (Salop) Union . 585, 593
Reg. *v.* Guardians of Totnes Union 398
Reg. *v.* Guardians of the Wallingford Union . . 360
,, Hatfield Peverel 320, 391, 400, 405, 419, 420, 421

PAGE
Reg. *v.* Heaton . . . 432
,, Higginson . . 569
,, Hill . 75, 214, 271
,, Hodges . . . 569
,, Hook . . . 394
,, Justices of Berkshire 572
,, ,, Buckinghamshire 435
Reg. *v.* Justices of Cambridgeshire 436
Reg. *v.* Justices of Cornwall 420, 421
,, ,, Derbyshire 245
,, ,, Glamorganshire . . 436, 585, 593
Reg. *v.* Justices of Kent . 434
,, ,, Lancashire, 433, 434
,, ,, Middlesex, 198, 433
,, ,, Salop 198, 435
,, ,, Shropshire, 436, 445
,, ,, Staffordshire, . 438
,, ,, Warwickshire 421, 434
,, ,, York, W.R. 433
,, Lake . . . 360
,, Lancashire Justices . 433, 434
,, Layton . . . 569
,, Leaden Roothing 429, 589
,, Leeds . . . 429
,, Liverpool . 419, 437
,, Maddock and Perfect 74, 279
,, Manchester 428, 433, 437
,, Marriott . . 84, 394
,, Medway Union . 434
,, Minster, 401, 418, 420, 433, 461
,, Newchurch . . 423
,, Newport (Salop) Union 585, 593
,, Pearce . . . 569
,, Pelham . . . 83
,, Pinder, in *re* Greenwood 267, 288, 290, 433
,, Porter . 86, 87, 271
PAGE
Reg. *v.* Priest Hulton . . 429
,, Rhyddlan . 391, 419
,, Rundle . 85, 87, 271
,, St. Anne, Blackfriars 429
,, St. Clement Danes . 422
,, St. George, Bloomsbury . . 422, 428
,, St. Giles-in-the-Fields . 422, 427, 428
,, St. Leonard, Shoreditch . . . 429
,, St. Maurice . . 448
,, St. Peter, Barton-upon-Humber . 435
,, Salop Justices . . 435
,, Shaw . . 236, 251
,, Shropshire Justices . 436, 445
,, Staffordshire Justices 438
,, Stainsby . . . 360
,, Stepney Union 594, 607
,, Stewart 318, 323, 360, 476
,, Stourbridge Union . 427
,, Tyrrwhitt . . 419
,, Visiting Justices of Lewes Prison 589, 607, 613
,, Warwickshire Justices 421, 434
,, West Ward Union . 427
,, Whitby Union 422, 427
,, Winsford . . 82, 418
,, Winster . . 420, 424
,, Wolverhampton 419, 420
Rex *v.* Dyson . . . 569
,, Jones . 267, 270, 272
,, Little . . . 580
,, Pritchard . . 569
,, St. Giles, York . 360
,, St. Luke's Hospital . 360
,, Smith . . 83, 87
Rhyddlan, Reg. *v.* . 391, 419
Ridgway *v.* Darwin . . 95
Roberts, *ex parte* . . 97
Rundle, Reg. *v.* . 85, 87, 271

St. Anne, Blackfriars, Reg. *v.* 429
St. Clement Danes, Reg. *v.* . 422
St. George, Bloomsbury, Reg. *v.* . . . 422, 428

PAGE

St. Giles-in-the-Fields, Reg. *v.* . . 422, 427, 428
St. Giles, York, R. *v.* . . 360
St. Leonard, Shoreditch, Reg. *v.* 429
St. Luke's Hospital, R. *v.* . 360
St. Maurice, Reg. *v.* . . 448
St. Pancras *v.* St. Marylebone 420
St. Peter, Barton-upon-Humber, Reg. *v.* . . . 435
Salop Justices, Reg. *v.* . 435
Scott *v.* Wakem . . . 89
Shaw, Reg. *v.* . . 236, 251
Sherwood and Margary, *ex parte* 97
Shropshire Justices, Reg. *v.* . . 436, 445
Shuttleworth, in *re*, 241, 267, 286, 287, 288, 289, 290, 458, 459
Simpson's Trust Estate, in *re, ex parte* the Overseers of Old Hutton . . . 591
Singleton *v.* Hopkins . . 146
Skingley, in *re* . . . 103
Slumbers (deceased), in the goods of 171
Smith, *ex parte* . . . 116
Smith, R. *v.* . . 83, 87
Southcote, *ex parte* . . 97
Stables, in *re* . . 141, 172
Staffordshire Justices, Reg. *v.* 438
Stainsby, Reg. *v.* . . 360
Stair, Lady, in *re* . . 157
Stewart, Reg. *v.* 318, 323, 360, 476
Stepney Union, Reg. *v.* 594, 607
Stourbridge Union, Reg. *v.* . 427
Stretford *v.* Justices of Lancashire 360
Symm *v.* Fraser and another 89
Tayler, in *re* . . . 171

PAGE

Thomas, in *re* . . . 96
Totnes Union, Reg. *v.* . 398
Townley, case of . . . 573
Townsend, in *re* . . . 129
Trevelyan, in *re* . . 146, 151
Turk *v.* Barber . . . 91
Tyler's Trusts, in *re* . . 430
Tyrrwhitt, Reg. *v.* . . 419

Upfull's Trust, in *re* . . 526

Vane *v.* Vane . . . 171
Visiting Justices of Lewes Prison, Reg. *v.* 589, 607, 613

Wallingford Union, Reg. *v.* 360
Ward, *ex parte* . . . 97
Waring *v.* Waring . . 96
Warwickshire Justices, Reg. *v.* 421, 434
Way, in *re* 147
West Ward Union, Reg. *v.* . 427
Wheeler *v.* Alderson . . 96
Wheeler *v.* Batsford . . 96
Wheeler, in *re* . . 146, 151
Whitbread, *ex parte* . . 96
Whitby Union, Reg. *v.* 422, 427
White *v.* Driver . . . 96
Wigton *v.* Snaith . . 429
Wild, case of . . . 569
Wilson *v.* Overseers of Liverpool. 423
Windeatt *v.* Sharland . . 528
Windham, in *re* 25, 113, 115, 170
Winsford, Reg. *v.* . 82, 418
Winster, Reg. *v.* . . 420, 424
Wolverhampton, Reg. *v.* 419, 420
Wood, in *re* 131
Wragg, *ex parte* . . . 97
Wylde, in *re* . . . 124
———, in *re* . . . 157

*** See also Finch *v.* the York Union (reported since the foregoing sheets were printed), in which it was held that there is no limit to the retrospective effect of an order for payment, made under s. 96 of 16 & 17 Vict. c. 97 (L. R. 2, Q. B. 15; 35 L. T. (N.S.) 360–677).

REPORTS OF LUNACY COMMISSIONERS REFERRED TO.

PAGE

Metropolitan Commissioners:—
1844, Report of . 38, 75, 96, 314, 323, 485, 575
Commissioners in Lunacy:—
Annual Reports generally . 327, 328, 329, 575, 608, 625
1847, Further Report of Commissioners in Lunacy 36, 62, 75, 295, 298, 302, 314, 321, 323, 376
1849, 4th Annual Report. 43, 267, 575
1850, 5th ,, ,, . 267
1851, 6th ,, ,, 68, 70, 74, 75, 220, 268, 312, 314
1852, 7th ,, ,, 47, 254, 264, 296, 302, 376
1854, 8th ,, ,, 75, 84, 85, 209, 314, 315, 324, 376, 546
1855, 9th ,, ,, 39, 64, 75, 76, 77, 380, 520
1856, 10th ,, ,, . 77
1857, 11th ,, ,, 75, 76, 314, 315, 342, 355, 480
1858, 12th ,, ,, 324, 344
1858, 12th ,, ,, (Supplemental Report to) 324
1859, 13th Annual Report. 30, 47, 49, 75, 76, 143, 215, 306, 314, 317, 321, 388, 510, 519, 541, 547

PAGE

Commissioners in Lunacy:—
1860, 14th Annual Report 49, 51, 319
1861, 15th ,, ,, 30, 69, 76, 315, 316, 327
1862, 16th ,, ,, . 315, 331, 483, 537, 575, 625
1863, 17th ,, ,, 31, 39, 40, 71, 75, 76, 309, 314, 315, 316, 317, 495, 498, 503, 513
1864, 18th ,, ,, 74, 86, 514, 576, 605, 608, 609
1865, 19th ,, ,, . 505, 523, 554, 609
1866, 20th ,, ,, 516, 521
1867, 21st ,, ,, . 603, 618, 619
1868, 22nd ,, ,, . 236, 521, 620
1869, 23rd ,, ,, 39, 524
1870, 24th ,, ,, . 234
1873, 27th ,, ,, 87, 561
1874, 28th ,, ,, . 188
1875, 29th ,, ,, . 40, 65, 605
1876, 30th ,, ,, 503, 523, 542, 565, 576

INDEX.

Abandonment of orders adjudicating settlement of pauper lunatics, 439; costs, 439.
Abatement of actions, 444; of prosecutions, 444.
Abolition of office of secretary to visitors of lunatics, 16, 107, 180; compensation to holder of the office, 107; of office of clerk to secretary, 107; of office of accountant-general, 134; of office of accountant-general of Court of Chancery, 177; of jurisdiction of Court of Chancery of County Palatine of Lancaster in cases of lunacy, 101.
Absence of visitor of lunatics, appointment of temporary substitute, 18, 107; of patients from hospitals and licenced houses on trial, 76, 321, 511, 552; from asylums, 315, 405; of criminal lunatics on trial, or upon conditions, 576, 606, 619; may be retaken in case of failure to return, 607, 619. See also Health of Patients.
Abstract of accounts to be annually sent to Secretary of State and clerks of the peace and commissioners, 304, 381; to be laid before Parliament, 382.
Abuse of patients, how punishable, prosecution, 29, 36, 75, 213, 214, 271, 443.
Access of guardians and others to pauper lunatics in cases of inquiries and appeals, 440; of relatives and friends to patients, 232.
Accident, change of licenced house rendered unfit by, 205.
Accommodation for lunaties in workhouses, 511, 561; entries to be made with regard to, 501, 552; inquiry by commissioners as to, 280, 324; in asylums for lunaties not paupers, 369.
Account of board of visitors under 3 and 4 Wm. iv. c. 36, 17; to be closed and balance transferred to "Suitors Fee Fund Account," 17, 112; of committee or receiver, form of allowance by masters, 124; masters to distinguish items in, 124; such items to be submitted to the Lord Chancellor for his allowance or disallowance, 124; of monies received for maintenance of temporary lunatics, 143; of produce of mines, 149; to be considered as real estate, 149; of secretary of commissioners, to be made out annually, 202, 625; signing of, 202; by whom to be audited, 202; balance of receipts how to be dealt with, 202; when to be laid before Parliament, 203, 625; deficit to be provided for by annual vote, instead of the Consolidated Fund, 630; costs and expenses incurred by order of commissioners to be included in, 248; of clerk of the peace, to be made out annually, 203; signing of, 203; to be laid before justices, 203; balances how to be dealt with, 204; costs and expenses incurred by order of visitors to be included in, 248.
Accounts to be kept by treasurer of asylum, 382; audit, 382; to be kept with regard to mortgages, 374; to be inspected by justices

Accounts—*continued.*
and council, 374: to be kept by clerk of asylum, 304, 381; abstracts to be made, 304, 381; to be laid before Parliament, 304, 382; audit, 304, 382; of guardians of the poor—fees for quarterly visitation of pauper lunatics, how to be entered, 388.
Accountant-General to declare trust of money or stock paid or transferred as security for committee, 122; to declare trust of money or stock belonging to lunatic paid or transferred, 123; to act upon report of masters, filed with the registrar in lunacy, 131; to act upon orders relating to money matters, 135; registrar to certify to, as to money orders, 135; masters to certify to, as to stock, etc., 135; transfer to, of stock belonging to lunatic, 153; to act upon office copies of orders in lunacy, 177.
Accountant-General, abolition of office of, 134; and of accountant-general of Court of Chancery, 177.
Actions for negligence in signing medical certificate, 71; for improper confinement, 87–91; for taking or detaining lunatics, 241; what may be pleaded in, 241; limitation of, 246; venue of, 246; pleas in, 246; evidence in support of plea in, 246; verdict when to be found for defendant in, 246; recovery of double costs by defendant in, 246; recovery of money by, 442; against committee of visitors, 443; abatement of, 444; for recovery of debts, 536; limitation of time, 536.
Act, copy of, to be bound up with visitors' book, 222, 284.
Acts to be construed together, 479; repealed, prosecution of offenders against, 247.
Acts of violence to be entered in medical visitation book, 216.
Additional asylum for pauper lunatics, when to be provided, 356.
Additional vote, chairman of commissioners in lunacy, 188; chairman of committee of visitors, 353.
Additions to asylum, power of committee to order, 362; expenses of, how to be borne, 363; to licenced houses, notice to be given to clerk of the peace, 51, 54, 199; to commissioners, 51, 55, 199, 489.
Adjournment of hearing of appeal against order or determination of justices, 245; of meetings of committee of visitors, 353; of quarterly meetings of commissioners for granting licences, 191.
Adjudication of settlement of pauper lunatics, signature of notice of appeal against order for, by guardians under local Act, 436; of criminal lunatic after expiration of his sentence, 589; of criminal lunatic committed from a borough, but confined in county jail under contract, and from thence sent to Broadmoor Criminal Lunatic Asylum, as to the proper justices to make the order of adjudication, 589; of insane prisoner, service of order need not be accompanied by statement of grounds of order or by particulars of settlement, 595; of settlement of pauper lunatics, 420; copy of order and grounds to be sent to parish affected, 432, 433; appeal against, 419, 433–435; how, if grounds are frivolous or vexatious, 438; abandonment of order, 439; how when parish cannot be ascertained, 423; reimbursement of county after settlement has been ascertained, 425; of settlement of insane persons or dangerous idiots apprehended under circumstances denoting a pur-

Adjudication of settlement—*continued.*
pose of committing an indictable offence, 584, 585; appeal against, 585; of settlement of criminal lunatic, 589, 592, 594; appeal against, 592, 593, 616.
Administration of effects granted to clerk to guardians, 430; to guardians, 528.
Administration of oaths, 190, 193, 196, 240, 242, 507; by masters in lunacy, 119; to commissioners in lunacy, 186.
Admiralty warrant for removal of insane naval prisoner to asylum, 617; for removal from asylum on his recovery, 617.
Admission, form of notice of, 279, 291, 461; to asylums to visit patients, 231; of private patients into county or borough asylums, when, 78, 369, 401; of pauper lunatics into asylum, order for, 308-313, 391, 395, 400; to what asylum order may extend, 399; of pauper lunatics to county or borough asylums, refusal of, when contagious or infectious disease prevails, 312, 313; of pauper lunatics into licenced houses and hospitals, when and how, 319, 320; of single patient into unlicenced house, 29-35, 236, 237; order for, its requisites, 67; on invalid certificate, liability of proprietor, 72, 73. See also book of Admissions. Reception. Orders.
Admittance to copyholds, as to, 137-139.
Admittance to King, persons apparently insane, who endeavour to obtain, may be kept in custody, 581, 582; may be examined by Privy Council or by Secretary of State, 581; commission for inquiring into sanity of such persons, may be awarded, 581, 582.
Advances by justices to clerk of the peace, 204.
Advertisements, masters in lunacy may issue, 121.
Affidavit, evidence may be by, 119, 240; provisions of 15 & 16 Vict. c. 86, ss. 22-24, respecting affidavits in the Colonies, extended to matters in lunacy, 119, 120; form of, to be taken in first person, and divided into paragraphs numbered, 120; short form of, 161; allowance of costs for, 120; as to alleged lunatic possessing property of limited value, 171; of continued insanity and confinement of person acquitted on the ground of insanity, 173.
Affirmations, 253.
Agreement for uniting, form, 347, 451; what it shall specify, 347; additional stipulations in, 347; may be varied or repealed, 348; alteration of proportion of expenses to be contributed under, 348, 470, 471, 472; application of money paid under, 349; when entered into and signed, to be reported to quarter sessions, 349; the original to be delivered to clerk of the peace to be entered among records of quarter sessions, 349; and a copy to be sent to commissioners in lunacy, 350; who entitled to inspect original, 350; to be submitted to commissioners, 370; for providing pauper lunatic asylums for counties or boroughs, 338, 339, 470, 471; form of the agreement, 347; how to be executed, 347; alteration of, 471; stipulations, 471; confirmation of, where the county of a city or county of a town has been admitted as a party, 513; between visitors and cemetery company or burial board for burial of pauper lunatics, 318, 476; as to burial grounds, 485; restrictions upon them, 486.

Agreements on behalf of lunatics under 1 Geo. i. c. 10, may be made by committee of estate, 147; executed under 16 & 17 Vict. c. 70, to be valid, 152; may be executed by receiver, 263. See also Contracts.
Alleged lunatics, visitation of, 250, 282.
Allotment of property of dissolved unions, 364.
Allowance for maintenance of family of lunatic, 96; of costs for affidavit, 120; to commissioners on retiring, 186, 631; to secretary on retiring, 189, 631; to person employed by commissioners to report on special cases, 281; to pauper patients absent on trial, 405, 502, 552.
Allowances, etc., payable under the 16 & 17 Vict. c. 70, to what fund now chargeable, 108.
Alteration of general rules for management of asylum, 376; of licenced houses, notice of, to be given to the clerk of the peace, 51, 54, 199; to commissioners, 51, 55, 199, 489; of periods of visits to, by commissioners, 218; of powers of committee of visitors, 345, 346; of agreements for uniting, 348, 471; of proportion of expenses to be contributed, 348; of proportion of visitors, 349; of asylum, committee of visitors to contract for, 357; power of committee to order, 362; expenses of how to be borne, 363, 484.
Amendment of defective certificates, 69, 271, 411, 496; of order for reception of lunatics, 69, 271, 411; of statement of grounds of appeal against order adjudicating settlement of pauper lunatic, 437; of order on account of omission or mistake, 437.
Amusements of patients, observations of commissioners on, 75, 314; inquiries to be made as to, 220, 249.
Annexation of boroughs to counties for purpose of providing asylum, 343, 344; of cities, towns, etc., not being part of a borough, to county for purposes of Act, 447.
Annual account of commissioners in lunacy, 202, 625; of clerk of the peace, 203; annual election of committee of visitors, 351; annual list of pauper lunatics chargeable to poor rates, 306, 329, 384, 385, 455, 545; form of it, 456; annual reports of commissioners to Lord Chancellor, 233, 282, 625; annual report to commissioners with regard to single patients in unlicenced house, 274; annual report to be made by commissioners in lunacy on criminal lunatic asylums, 609; copy to be laid before Parliament, 609; annual report of committee of visitors to justices, 300, 383; copy to be sent to commissioners, 300, 383; annual sum by way of rent for land or buildings purchased for pauper lunatic asylum, 359; annual votes, payment of contingent expenses of commissioners in lunacy out of, 625, 628, 630.
Annuities, masters retiring may receive, 17, 104; to be paid quarterly out of the Suitors' Fee Fund, 17; to retiring medical visitors, Lord Chancellor may order, 176; grant of to superannuated officers and servants in asylums, 381, 487; how payable, 381; limitation of amount of, 381; confirmation of by justices, 488; to matrons, 488; payable under the 16 & 17 Vict. c. 70, to what fund now chargeable, 108; due to pauper lunatic, recovery from, of cost of his maintenance, 532; payment by trustee or other person to be a legal discharge to the person making the same, 532.
Answers to be given to inquiries of commissioners and visitors, 220.

Apothecary, appointment as visitor of houses licenced by justices, 193; remuneration, 194; when not to sign certificates for admission of patients, 196, 272, 402; penalty, 197; resident superintendent of registered hospital, 209; of licenced house, 214; definition of, 283, 450, 507; when to be approved of by commissioners or justices, 490; certificate of for admission of private patient, 267; of pauper lunatic, 269; how to be filled up, 547; to state facts upon which opinion of insanity has been formed, 271; when not to receive boarder in unlicenced house, 272; signing certificate contrary to Act, 272; may accompany borough justices on visitation of borough lunatics in county asylum, 341; his remuneration in such case, 341; appointment of by guardians to visit pauper lunatics in asylum, 385; remuneration of for such visits, 386; for examining lunatic, 397; signing certificate contrary to Act, penalty, 443; false certificate, a misdemeanor, 443; may be called in to assist justices in examination of persons in custody or apprehended under circumstances denoting derangement of mind and a purpose of committing an indictable offence, 583.

Appeal against conviction, 245; notice of, 245; recognizance on, 245; hearing of, 245; adjournment of, 245; mitigation of penalty upon, 245; costs of, 245; decision upon to be final, 245; by person aggrieved by refusal of an order of justices, 432; against order adjudicating settlement of pauper lunatic, 419, 434, 435; not to be allowed unless notice has been given, 435; statement of grounds to be sent to respondents, 436; no objection to be taken for defect in form, 436; amendment of statement of grounds of appeal, 437; of order adjudicating settlement, 437; how, if frivolous or vexatious, 438; costs, 438; decision of court to be final, 438; access to lunatic, 440; against any order or determination of justices, other than orders as to settlement of lunatics and orders for their maintenance, 445; by guardians against order of commissioners for removal of lunatic from workhouse to asylum, 498, 551; by guardians against orders of maintenance in respect of pauper lunatics in asylums, 537, 538; duty of clerk to guardians, 537; against order of adjudication of settlement of insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, 585; against order of adjudication of settlement of criminal lunatic, 573, 592, 593; against order of justices in the case of insane prisoners, 592, 616; against orders in lunacy of Lord Chancellor, to Court of Appeal, 16, 179; against order of justices upon guardians for maintenance of lunatic, 419; against order adjudicating settlement of pauper lunatic, signature of notice of, by guardians under Local Act, 436; to quarter sessions of county, 434; against order adjudicating settlement of insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, transmission or service of documents relating to, 585.

Application of money received by commissioners for licences and searches, 202; by clerks of the peace, 203; of property of lunatic, 239; inquiry and report, 238; of money paid under agreement for uniting, 349; of penalties and forfeitures, 244, 247, 444; of purchase money of land or buildings sold by committee of visitors, 366.

Application to Lord Chancellor in lieu of masters, payment of costs, 126; costs of, may be paid out of lunatic's estate, 154.
Applications for licences, meetings of commissioners to receive, 191; notice of to be given to justices, 197, 198; for renewal of, 200.
Applications to courts with reference to leases and sales of settled estates, by guardians of infants, committees of lunatics, and assignees of bankrupts or insolvents, 164.
Appointment of masters in lunacy, 16, 102; of their clerks and messengers, 16, 105; of chief clerk, 17, 105; of registrar of lunacy, 16, 103; of subordinate officers, 16, 105; of visitors of lunatics, 16, 105; of temporary substitute, 18, 106; of their secretary, 107; of guardian for lunacy, may be made by masters, 128; of attorney for lunatic and admittance to copyhold land, 138; of clerks to visitors of lunatics, 176; of guardian of person of lunatic, 239; of receiver of estate of lunatic, 239; of chaplain to asylum, 378; of chaplain for new burial ground, 486; of commissioners in lunacy, 184, 624; on vacancies occurring, 185; of their permanent chairman, 187; of secretary, 188; of clerks, 189; of committee of justices to provide asylum for county or borough, 299, 338, 346; of additional members of committee, 345, 346; of new committee, when original committee shall have ceased to exist, 345; of new trustees of land purchased or acquired for asylum, 361, 362; where appointment is to be deposited, 362; of officers of asylum, 376; of person by commissioners to inquire into and report on special cases in asylums or workhouses, 281; of person to keep accounts with regard to mortgages, 374; of visitors of houses licenced by justices, 193; of their clerk, 195; of special visitor to visit asylums, gaols, etc., 249, 250; of visiting committee, 500; of council of supervision of criminal lunatic asylum, 604; of superintendent, chaplain, and other officers and servants, 604; of physicians or surgeons to inquire into insanity of prisoner sentenced to death, 613; of committee for care and protection of person and estate of lunatic removed from India to the United Kingdom, 601.
Apprehension of offenders, 243; of lunatics absent from asylums on trial, 406, 502; of lunatics wandering at large, 394; of insane persons about to commit crime, 568, 583.
Approval of patients being taken to places for benefit of health, 232; of commissioners or justices to resident physician, surgeon or apothecary, 490.
Appurtenances belonging to pauper lunatic asylums, enlargement and improvement, etc., of, 357; committee may order additions, etc., to, 362.
Ashley, Lord (Lord Shaftesbury), appointment of as commissioner in lunacy, 184.
Assent of commissioners to relative or friend of lunatic boarding in licenced house, 296, 491; of visitors, 491.
Assessment of land and buildings to local rates, 360.
Assessment to defray expenses of lunatic asylums, 371.
Assignees of bankrupts or insolvents, powers of, in respect of leases or sales of settled estate of such bankrupts or insolvents, 164.
Assistant to clerk of visitors of houses licenced by justices, 196; oath

Assistant to clerk—*continued.*
of, 196; not to be interested in any licenced house, 196; misdemeanor, 197.
Asylum, for county or borough, provision of more than one, 297; defined, 252, 450, 482; appointment of separate committee of visitors for each asylum, 297; purposes for which asylums are to be provided, 298; pauper lunatics in, visitation of, by guardians, as to number who should make the visit, 301; what class of pauper lunatics should be sent to, 304, 305; pauper lunatics may be excluded from, when contagious or infectious disease prevails, 312, 313; parliamentary grant in aid of the cost of maintenance of pauper lunaties in, 332, 563; application by guardians to Local Government Board, for repayment out of grant, 563; for insane provided by Metropolitan Asylums Board to be deemed a workhouse, within meaning of the Lunacy Acts, 540; discharge of sewage from, duty of committee of visitors to prevent nuisance, 362; or any other nuisance in connection with asylum, 363; chapel of, law relating to, 378; keepers or attendants in, exempt from serving on juries, 380; consent of visiting justices to visitation of paupers in, by medical officer appointed by guardians, 386; registration of deaths in, 414; included in the term "public institution," as used in the Registration Act, 414; and chief officer of, included in the term "occupier," 414; lunatics sent to workhouse from, to be still regarded as asylum patients, 524; for idiots, provision for guardians sending idiotic paupers to, 523, 558; power of Secretary of State to grant temporary leave of absence to criminal lunatics in, 576; conveyance to, maintenance in, and temporary absence from, of criminal lunatics, provisions in secs. 9 and 10 of the 23 and 24 Vict. c. 75, as to criminal lunatic asylum, to apply to any other asylum, 619; reception into, of criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620; removal to, from Queen's prison, of lunatic prisoner for debt, 611; upon becoming of sane mind to be returned to Queen's prison, 611; escape from, of lunatic prisoner for debt, 611; removal of pauper lunatics in the metropolis to, suggested alteration in the mode of examination by police magistrates prior to order for removal, 555, 556; lunatics in to be visited once a year unless Lord Chancellor shall otherwise direct, 23, 175; transfer of patients to, from licensed house or hospital, 226; search and particulars to be given as to persons confined in, 231; annual reports on state and condition by commissioners, 233; when to be visited by commissioners, 248; what inquiries to be made in respect of, 249; appointment of special visitor of, 249, 250; legislation with regard to, 295; for counties and boroughs, provision of, 337; where, and by whom, 296, 338; justices to determine how asylum shall be provided, 338; counties and boroughs, etc., may unite in providing, 338; committee of justices, powers of, with respect to providing, 339; who may unite in providing, 340; justices of boroughs may contract for reception of pauper lunatics into, 341; committee superintending erection of, to be deemed committee of visitors, 351; annual election of committee of visitors for, 351; separate com-

Asylum—*continued.*
mittee to be elected for each asylum, 352; when not, 352; when Secretary of State may require justices of county or borough to provide, 355; for pauper lunatics, when to be enlarged or additional asylum provided, 356; powers of justices when erected beyond limits of county or borough, 359; assessment of to local rates, 360; committee to order repairs to, 362; plans, estimates, etc., for, to be procured and determined on by committee of visitors, 358; how union may be dissolved, 299, 364; if capable of containing other lunatics than of the county, etc., they may be admitted, 79, 304, 368; monies for, how to be raised, 299, 371; regulation and management of, provisions for, 302, 375–385; to be visited once every two months, 300, 382; annual reports of condition of, to be made by visitors, 300, 383; guardians or overseers may visit pauper lunatics confined in, 300, 386; provision for sending pauper lunatics into, 390; conveyance, 312; reception, 312; when there is a deficiency of room, 312; pauper under order of justices, to what asylum to be sent, 399, 551; no pauper to be received into, without order and certificate, 400; private person not to be received into, without order and certificates, etc., 401; medical officer of, may not sign certificate for admission into, 402; two visitors, being justices, may order removal of paupers to or from, 316, 403; keeping of vehicle for sending home recovered paupers, 549; pauper lunatic not to be received into other than county or borough asylum, except in certain cases, 405; discharge of lunatics from, 405–407; commissioners to visit and make inquiries, 249, 302; commissioners in lunacy may order removal of lunatics from, 408; person who signed order for reception of patient into, may order his discharge, 408; provision in case the person be dead, etc., 409; transfer of private patients from and to, 410; persons received into, may be detained, if escaped, may be retaken, 315, 411; clerk to make entry of admissions into, 411; medical journal and case book to be kept in, 314, 412; provisions of Act relating to expenses of pauper lunatics in, extent of, 440; superintendent or officer ill-treating lunatics, penalty, 314, 443; erection of, council of borough may exercise powers conferred on justices, etc., as to, 446; provision of by committee of justices when dissolution of union takes place, 472; visitation of by commissioners alone, 497; removal from, of chronic lunatics to workhouse, 485, 514, 525, 558; removal to, of lunatics by order of commissioners, 310; for county, exemption of boroughs in certain cases from contributions to, 337; removal of lunatic to, not an interruption of residence, but time to be excluded from computation, 527; expenses of removing paupers to and from, to be chargeable to common fund in all cases, 537; burial of pauper lunatics dying in, 318, 319, 523; removal to, of persons in custody under repealed Act, or apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 583; order for payment of maintenance in, 584; discharge from, on recovery, 586; removal to, of criminal lunatic, 572, 590; order for payment of maintenance in, 572, 590; removal from, of criminal lunatic by order of Secretary of State, to criminal lunatic asylum,

Asylum—*continued.*
576, 604; continuance in, or removal to, of criminal lunatics, 604; removal to, after expiration of term of imprisonment, 606; removal to, of criminal prisoner becoming insane, 573, 613; of insane prisoner sentenced to death, 573, 614; of insane naval prisoner, 617. See also Criminal lunatic asylum. Licensed houses. Registered hospitals.
Asylums of Metropolitan Asylums Board, reception into of those metropolitan insane paupers who may lawfully be kept in a workhouse, 328, 329.
Attempting to conceal patients on visits of commissioners or visitors, 222.
Attendant, defined, 284; qualifications, duties, and remuneration, 75; penalty for ill-treating lunatic, 75, 213, 271, 443; prosecution for manslaughter, 75; notice of dismissal of, to be sent to commissioners, 279, 303; by clerk to asylum, 380; in county or borough asylum, exempt from serving on juries, 380; inquiries by commissioners as to number, 249; ill-treating criminal lunatic, penalty, 608.
Attorney for lunatic, appointment and admittance to copyhold land, 137.
Attorney-General, proceedings by, 214; prosecutions by consent of, 247.
Audit of annual account of secretary of commissioners, 202; of accounts of treasurer and clerk of asylum, 304, 382.
Auditors (district), claims of counties and boroughs to contribution from parliamentary grant in aid of cost of maintenance of pauper lunatics in asylums or licenced houses to be examined and signed by, 563–565.
Authority of councils of boroughs under the Acts, 473.
Authority of Lords Justices of Court of Appeal in Chancery, under Lunacy Regulation Act, 1853, or other Acts relating to lunatics, 100.
Bail, persons imprisoned for not finding, becoming insane, how to be dealt with, 613, 614.
Balance of money in hands of secretary of commissioners, 202; of clerk of the peace, 204.
Bank of England, provisions relating thereto, to extend to other companies or societies, 101; who to be appointed to make transfer of lunatic's stock, 153; Act to be full indemnity to, 154, 174, 262; to act upon report of masters filed with the registrar in lunacy, 131; to act upon orders of Lord Chancellor relating to money matters, 135; to act upon office copies of orders in lunacy, 177; receipt of relieving officer or overseer a discharge to, for dividends due to lunatic, 417, 431.
Bankrupt, powers of assignee of, in respect of leases or sales of settled estates of, 164.
Bank stock, power to receiver to receive dividends on stock standing in lunatic's name, 262.
Barlow, F., appointment of, as commissioner in lunacy, 184.
Barnes, jurisdiction of commissioners in lunacy as to, 44, 191.
Barrister, qualification required as a master in lunacy, 17, 102; qualification required as a legal visitor of lunatics, 17, 105; qualification required as a substitute for visitor of lunatics, 107; appointed as commissioner in lunacy, 184, 624; acting as commissioner, salary of, 185; when to be appointed, 185; how to be qualified, 186, 285;

Barrister—*continued.*
to act as visiting commissioner, 217; who meant in Act by, 251. See also Commissioners in Lunacy. Visiting Commissioners.
Baths, 75; for insane inmates of workhouse, 327; regulations of lunacy commissioners, 559, 560.
Battersea, jurisdiction of commissioners in lunacy as to, 44, 191.
Beds in asylums, number of, to be determined by committee of visitors, 302, 376; reserved, 376.
Benefit of health of patient, temporary removal, for purpose of, 232; in the case of a single patient, 278; patient in registered hospital, 478.
Benefit societies, members of, becoming insane, recovery of cost of maintenance, 333, 532, 533; trustees or managers of, payment by to guardians, of money due to lunatic pauper, 533; order of justices upon trustees or managers, in case of refusal to pay, 533.
Bermondsey (St. Mary Magdalen), jurisdiction of commissioners in lunacy as to, 44, 191.
Bethlehem Hospital, subjected to provisions of Lunacy Acts, 40, 283; accommodation in, for criminal lunatics, 571, 575; removal to, of insane prisoner from Queen's prison, 611; escape from, 611.
Birth settlement of unemancipated child of Irish parents, 423.
Bishop, to licence chaplain of asylum, 303, 378.
Blackheath, jurisdiction of commissioners in lunacy as to, 44, 191.
Blackstone, definition by, of an idiot, 4; of a lunatic, 4; of unthrifts or prodigals, 5; cited as to mode of inquiring whether a person is an idiot or not, 9; or a lunatic, 10; as to case of offender who becomes insane, 568.
Blind, deaf, and dumb, persons so born, in law idiots, 4; persons becoming so after birth, technically lunatics, 5; cases of Laura Bridgman and Oliver Caswell, 4.
Board, term defined as used in relation to commissioners in lunacy, 193, 284; of management of asylum district, limitation of time for payment of debts, 535, 536; of management of school district, limitation of time for payment of debts, 535, 536.
Boarders in hospitals, 40.
Boarding persons who are not lunatics in licenced houses prohibited, 265; in what cases lawful, 74, 269; who prohibited from, 272; extension of powers as to, 491; single patient in unlicenced house, 29, 235.
Bodily condition of patients to be entered in case book, 216; inquiries to be made by commissioners as to, 249; by visitors as to, 175.
Book of admissions, to be kept, 73, 210; form, 256, 257; entry of patients in, 210; penalty for omission to make entry, 210; untrue entry a misdemeanor, 210; inspection of book, 210: entry of form of mental disorder, 210, 211; penalty for default, 211; entry of cases, 216.
Books of Metropolitan commissioners, delivery of, to commissioners in lunacy, 190.
Books required to be kept:—by clerk of asylum, 381; for entry of contracts, 357; to be open to inspection, 358; to be deposited, 358; entries in, by committee of visitors, 300, 382; by visiting commissioners, transmission of, 413;—by registrar in lunacy for entry of orders, 134; when office copies are to be furnished, 134;—by

Books required to be kept—*continued.*
master of workhouse for entry of observations of visiting committee, 325, 501, 552; to be laid before visiting commissioners, 325, 501, 552;—by commissioners in lunacy for entry of rules and orders, 224.
Books—see also Book of Admissions. Case Book. Entries. General Register. Inspection. Medical Journal. Medical Visitation Book. Patients' Book. Private Register Book. Production. Register Book of Lunatic Hospitals. Register of Discharges and Deaths. Register of Discharges, Removals, and Deaths. Register of Patients. Report Book on houses and hospitals not within the immediate jurisdiction of Commissioners. Signing. Visitors' Book.
Borough defined, 251, 448; what to comprise, 253, 595; when to be deemed to be annexed to county, 473; provision of more than one asylum for, 297; appointment of separate committee of visitors for each such asylum, 297.
Borough asylums, provision of by justices, 337; when Secretary of State may require justices to provide, 355; enlargement of, or provision of new asylum by justices, 356; upon dissolution of union, 472; admission of private patients into, by order of committee of visitors, when, 369; for what purposes they are to be provided, 298; cost of maintenance of pauper lunatics in, parliamentary grant in aid of, 332, 563; application by guardians to Local Government Board for repayment out of grant, 563; by counties, 563, 564; by boroughs, 564.
Borough, council of, to exercise same duties as to erecting asylums as are conferred upon justices, 446; committees appointed by, to have same powers as committee of visitors, 446; powers of council of, under Acts, 473.
Borough fund, payment to be made out of, towards expenses of asylum when borough annexed to county, 343; in ordinary cases, 371.
Borough lunatics maintained in county asylums, visitation of, 341.
Borough rate, defined, 251, 450; application of balance in hands of clerk of peace in aid of, 204; excess of payments over receipts by clerk of peace may be defrayed out of, 204; payment to be made out of, towards expenses of asylum, when borough annexed to county, 343; payment out of, of costs and expenses of asylum, 371.
Borough treasurer, payment of balance to, by clerk of the peace, 204; payments by, to clerk of the peace, 204.
Boroughs, granting of licences in, 192; within immediate jurisdiction of commissioners in lunacy, 191; what places to be included in, 253; holding special sessions for the purposes of the Act in, 253; justices of, may contract with committee of visitors for reception of borough lunatics in county asylums, 341; visitation of lunatics in such case, 341; borough not required to provide a separate asylum while contract is in force, 342; how, when the borough already contributes to county asylum, 342; when to be annexed to county, for the purpose of providing asylum, 343, 344; when recorder to appoint justices to be

Boroughs—*continued.*
members of committee of visitors of county asylum, 343, 480; contribution of borough towards expenses of asylum, 343; how, if borough neglects to provide asylum, or contract with county, 344, 345; annual election of committee of visitors for, 351; union of, for the purpose of providing pauper lunatic asylum, 338, 470; calculation of expenses, 471; in what cases pauper lunatics to be adjudged chargeable to, 332, 507, 552; having or providing a lunatic asylum not liable to contribute to county asylum, 337; maintenance of pauper lunatics sent from, to county asylum, 332, 522, 523, 557; to registered hospitals or licenced houses, 332, 533; part of cost of maintenance to be paid by borough, and part by guardians, 533, 557; claim by, for contribution from Parliamentary grant in aid of the cost of maintenance of pauper lunatics in asylums and licenced houses, 564.
Bridgman, Laura, blind, deaf, and dumb after birth, 4.
Brixton, jurisdiction of commissioners in lunacy as to, 44, 191.
Broadmoor Criminal Lunatic Asylum open for reception of patients, 575; number of inmates, 576; rules for guidance of officers, etc., 605; report of commissioners of lunacy on, 609; classes of inmates, 603; superannuation of staff of, 605.
Brother, wilful neglect of, application of 16 & 17 Vict. c. 96, s. 9, to such cases, 86.
Buildings communicating with licenced houses or hospitals, inspection of, by commissioners, 217; by visitors, 219.
Buildings, purchase of, by committee of visitors, 357; on a reserved rent-charge, 359; lease of, for a term of years, 359; assessment of, to local rates, 360; division of, on dissolution of union, 364; sale or exchange of, 365; contracts for, to be submitted to commissioners, 370; for asylums, hire or lease of, for term of years, 487.
Building and repair fund, excess of payments for pauper lunatics to go to, 484.
Building pauper lunatic asylum, committee of visitors to contract for, 357.
Burials, generally, provisions of the law relating to, 441.
Burial Board, agreement with, for burial of pauper lunatics, 319, 476.
Burial ground for pauper lunatics, conveyance of land for, 477; visitors empowered to acquire, 319, 485; enlargement of, 319, 485; limitation as to extent, 486; consecration of, 477, 485; appointment of chaplain, 486; expenses of providing, how to be borne, 486; contributions in aid of, 485.
Burial of lunatic dying in asylum, by whom to be provided, 318; undertaking for payment of expenses of, 369.
Burial of pauper lunatic dying in asylum, service upon guardians of order of justices for payment of cost of, 442.
Burial of pauper, guardians may recover cost of, from his property, 523; by direction of guardians, or of their officers, cost of, chargeable to Common Fund, 539.
Burial of pauper lunatics dying in asylum, 318, 323, 475, 476, 523, 557; how expenses of, are to be borne, 318, 323, 441; fees to clergymen on burial, 318, 476.

Business of commissioners in lunacy, orders and rules as to, 224.
Calculation of proportion of expenses in certain boroughs united, 471; of superannuation allowances, 487.
Camberwell (St. Giles), jurisdiction of commissioners in lunacy as to, 44, 191.
Care of lunatics, visitors to make inquiries as to, 175; in asylum, undertaking for payment of charges for, 369; annual report of committee as to, 383.
Care of idiot and of his estate, by some person who shares profits with Crown, 10.
Case book to be kept, 64, 65, 216, 321; entries to be made in, 216; order prescribing form of, 65; commissioners may direct form of, 216; may require to be furnished with copies of entries therein, 217; inspection of book under 14 & 15 Vict. c. 99, s. 6, 216; penalty for neglecting to keep or transmit entries, 217; death of patient to be entered in, 279; entries to be made in, with regard to patients generally, 74, 314, 412.
Case and opinion as to the construction of the term single patient, 30; as to voluntary boarders in hospitals, 40.
Casting vote of chairman of commissioners in lunacy, 188; of chairman of committee of visitors, 300, 353.
Caswell, Oliver, deaf, blind, and dumb after birth, 4.
Cause of death of patient, entry of, 213.
Celebration of Divine service in asylum, 378.
Cemetery Company, agreement with for burial of pauper lunatics, 319, 476.
Certificate of masters in lunacy, as to payment of per centage, 109; as to expedience of a jury, 20, 114; on inquisition without a jury, effect of, 21, 115; for payment or transfer into court of money or stock given as security for committee, 122; for payment or transfer into court of money belonging to lunatic, 123; of clerk of asylum as to number of private patients of each sex in asylum, 384; of medical officer of asylum with regard to dangerous lunatics therein, 409; to be sent with lunatics conveyed to criminal lunatic asylum, 604, 609; to be transcribed into general register, 604; form, 609; of Secretary of State to rules for government of criminal lunatic asylum, 609; of medical practitioners as to lunatic prisoner for debt, 611; of justices and of physicians or surgeons as to criminal prisoner who has become insane, 613; of visiting justices as to insanity of prisoner sentenced to death, 613, 616; of physicians or surgeons appointed by Secretary of State to inquire into insanity of prisoner sentenced to death, 614; of sanity of criminal prisoner who was removed to asylum, 614; of insanity of naval prisoner, 617; of sanity of naval prisoner, 617; of cause of death, given by medical practitioner, to be sent to registrar of births and deaths, 415; penalty for not sending such certificate to registrar, 415; of registry of death, duty of registrar, 441; of cause of death, when an inquest has been held, 505, 506; of medical officer of workhouse, district school or district asylum, as to detention in, of persons on the ground of insanity, 521, 557, 561, 562; of medical officer of workhouse, as to detention in, of pauper lunatics, to be laid before visiting commissioner, 562.

Certificates for discharge or removal from criminal lunatic asylum, 606. See also Medical certificates.
Certiorari, amendment of order adjudicating settlement of pauper lunatic on return to writ of, 438; where it will not lie, 438, 592.
Chairman of commissioners in lunacy, 187; his casting vote, 188. See also Permanent chairman.
Chairman of committee of visitors, election of, 300, 353; how if he be absent, 353; his casting vote, 300, 353.
Chancery Division of High Court of Justice, orders of, for maintenance and custody of lunatics not so found by inquisition, although their property exceeds the limits fixed by statute, 171.
Chancery lunatics—See Private lunatics.
Change of names of officers in lunacy, 104, 184.
Change of residence of persons having charge of single patients, 278.
Chapels, private, amendment and definition of the law relating to, 378; of colleges, asylums, etc., 378.
Chaplain of asylum, appointment of, 303, 378; residence of, in asylum, 303, 378; his qualifications, 378; his duties, 303, 378; removal of, 379; superannuation allowance to, 381, 487.
Chaplain of criminal lunatic asylum, appointment, removal, salary, and duties, 604.
Chaplain of workhouse included in "officiating clergyman of the parish," 284, 308.
Chaplain for new burial ground, appointment of, 486.
Charge on lunatic's estate, extension of powers, 173, 174; under Act to be valid and binding, 174.
Charge upon county or borough rates, form of, 453.
Chargeability of fees for quarterly visitation of pauper lunatics, 387, 388; of pauper lunatics, 330; sent to asylum, 330, 331, 418; in receipt of out-door relief, 330; of pauper lunatics to county, in what cases, 332, 423; of irremovable lunatic paupers to common fund, 426–429; of pauper lunatics whose settlement cannot be ascertained, when found in boroughs, 332, 506, 552; of lunatics to common fund, 527; of lunatics wandering at large or not under proper care, 82; of chronic lunatics removed from asylum to workhouse, 514; to common fund, of payments by guardians for maintenance of insane prisoners, 574, 615; of irremovable lunatic paupers, to common fund, how, when there is a breach of residence, 423; computation of period of residence, 428; of all relief in unions, to common fund, 389, 428, 539.
Charges for licences, 201; for licence on change of house, 206; for searching returns, etc., 230.
Charging fees to registrar of deaths, mode of, 415.
Charitable fund for discharged patients, 317.
Charlton, jurisdiction of commissioners in lunacy as to, 45, 191.
Chelsea pensioners becoming insane, 333, 531.
Chief clerk to masters in lunacy, appointment, 17, 105; subject to approbation of Lord Chancellor, 17, 105.
Christchurch, Clapham, jurisdiction of commissioner in lunacy as to, 44, 191.
Chronic insanity, forms of, 485.
Chronic lunatics, what to be included in the expression, 513; arrange-

Chronic lunatics—*continued.*
ments for care of in workhouses, 328, 485, 513, 514, 553, 558; chargeability of, 513; sent from asylum to workhouse, to be still regarded as patients in asylum, 328, 524, 558.
Circulars of Poor Law Board to medical officers, quarterly visitation of pauper lunatics, 306, 543; to clerk to guardians, quarterly visitation of pauper lunatics, 306, 544; to boards of guardians, removal of pauper lunatics to and from asylums, 316, 549; to boards of guardians, provisions of 25 & 26 Vict. c. 111, 301, 550.
Circulars of commissioners in lunacy to clerks to guardians and to overseers, quarterly visitation and lists of pauper lunatics not in asylums, 306, 546; to persons having charge of single lunatics, 32–35.
Cities within immediate jurisdiction of commissioners in lunacy, 44, 191.
City, what to include, 595.
City, when to be annexed to county, for purposes of Act, 447.
City, being a county in itself, and having no Recorder to be included in the expression "county," as used in the Lunacy Acts, 515; powers of justices of, with regard to contracting for reception of their lunatics into other asylums, 516.
Claim, by guardians upon estate of lunatic not so found by inquisition, for his past maintenance in workhouse, 431.
Clapham, jurisdiction of commissioners in lunacy as to, 44, 191.
Classes of lunatics, 1.
Classification of patients, observations of commissioners on, 75; inquiries to be made as to, 220, 249; of pauper lunatics in asylums, 298; of inmates of Broadmoor Criminal Lunatic Asylum, 603.
Clergyman, officiating, when he may order discharge of pauper patient from licenced house or hospital, 225; order of, for reception of pauper lunatic into licenced house, 269; into asylum, 307, 308, 391.
Clerk of asylum, appointment of, 303, 379; removal of, 379; salary of, 379; to report dismissal of nurse or attendant employed in asylum to commissioners, 303, 380; accounts to be kept by, 304, 381; to keep books, etc., 381; audit of his accounts, 304, 382; to transmit a copy of annual report on asylum to commissioners, 383; to make out half-yearly list of lunatics in asylum, 319, 383; and forward copies to visitors, clerk of the peace, clerk to justices, and commissioners, 319, 383, 384; as to private patients, 80, 384; to forward to clerk of the peace and clerk to justices certificate as to number of private patients of each sex in asylum, 80, 384; copy of quarterly list of pauper lunatics not in asylum, to be sent to, 389, 545, 546; entries to be made by, with regard to admission of patients, 411; to transmit to commissioners copy of order and statement and certificate as to lunatics admitted, 412; penalty for omission, 412; to transmit to commissioners copies of entries of visiting commissioners in books of asylum, 413; penalty for omission, 413; to sign notice and statement with regard to death of patients in asylum, 413; penalty for omission, 415; entries to be made by, with regard to death, discharge, or removal of patients, 317, 415; penalty for not making, or for false entry, 416; com-

Clerk of asylum—*continued.*
mittee may sue and be sued in name of, 443; to give notice to relative of death of lunatic, 317, 495.
Clerk of the custodies of idiots and lunatics, duties which formerly belonged to, to be discharged by masters and registrar in lunacy, 18, 104.
Clerk to board of guardians defined, 449; to make out and transmit annual list of pauper lunatics chargeable to poor rates, 306, 384; quarterly lists of pauper lunatics visited to be sent to, by medical officer, 306, 389, 546; to make and send copies thereof, to clerk to visitors and commissioners, 306, 389, 545, 546; penalty for neglect, 389, 545; duty of, to make application to justices for order, 430; to have access to pauper lunatics in cases of inquiries or appeals, 440; to transmit copies of notice to commissioners of police, 393; order directing payment to be made by him, 421; administration of effects granted to, 430; duty of, with respect to application for orders and conducting appeals, 537; signature by, of notice of appeal against order of adjudication of settlement of criminal becoming insane, 593.
Clerk to justices, copy of half-yearly list of pauper lunatics in asylums to be sent to, 319, 384; to be laid before justices of borough, 319, 384; certificate of number of private patients of each sex in asylum to be sent to, 384; copy of annual list of pauper lunatics, to be sent to, 385; to furnish copy of depositions as to settlement of pauper lunatics, 435; how when there is no clerk, 435.
Clerk of Metropolitan commissioners in lunacy to deliver up books, etc., to commissioners in lunacy, 190.
Clerk of the peace defined, 252, 449; to publish list of visitors of houses licenced by justices, 194; and to send copy to commissioners in lunacy, 194; penalty for default, 194; may be appointed clerk to visitors, 195; when and how to publish appointment of clerk to visitors, 195; when to communicate same to commissioners, 195; penalty for default, 195; notice to be given to, of intended application to justices to licence house, 53, 198; his duty in such case, 198; notice to, of additions and alterations to licenced house, 54, 199; penalty on, for omitting to send copy of licence to commissioners, 200; charge for licences payable to, 54, 201; application by, of money received for licences, 203; annual account of, 203; to be laid before quarter sessions, 203; payment of balances by, 204; advancement of monies to, 204; application of penalties received by, 244, 247; costs and expenses incurred under order of visitors to be paid by, 248; when notice of recovery of pauper lunatic to be given to, 276; notice to be published by, with respect to appointment of committee of justices to provide asylum, 337; original agreement for uniting to be delivered to, and entered among records of quarter sessions, 349; penalty for neglecting to send copy to commissioners, or refusing inspection, 350; for county, conveyance to, of lands purchased or exchanged, 361, 517; vesting of such lands in him, 517; copy of half-yearly list of lunatics in asylums to be sent to, 319, 384; to be laid before justices, 384; certificate to be forwarded to, as to number of private patients of each sex in asylum, 384; copy of annual return of pauper lunatics to be sent to, 385; notice to,

Clerk of the peace—*continued.*
with regard to lunatic whose settlement cannot be ascertained, 423; copy of annual list of pauper lunatics to be sent to, 385; notice to, of death of lunatic chargeable to county, 415; to send copy of order adjudicating settlement to parish affected, 432; to have access to such lunatics in cases of inquiries or appeals, 440; notice of additions to, or of alterations in, licensed house, and plans to be sent to, 489; to send copies thereof to commissioners, 489; report of commissioners to be sent to, 489; notice to, on appeal against order of adjudication of settlement of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 585; notice of appeal against order of adjudication of settlement of criminal lunatic, 593; for borough, commissioners may require to transmit to them copy of report of justices on visitation of borough lunatics in county asylums, 341; original agreement for uniting to be delivered to, and entered among records of sessions, 349; penalty for neglecting to send copy to commissioners, or refusing inspection, 350; to keep copies or extracts from mortgages, 372; abstract of accounts of asylum to be sent to, 381.

Clerk to committee of visitors to convene meeting of committee on requisition of chairman, or two visitors, 353; his appointment, salary, removal, and continuance in office, 353, 354; may be clerk to asylum, 354; prosecutions by, 444; may be a witness in such case, 444.

Clerk to visitors of houses licenced by justices, appointment of, 194; to summon meeting of visitors, 195; to take oath, 195; name, etc., of, to be published, 195; appointment to be reported to the commissioners, 195; his salary, 195; employment of an assistant, 196; oath of assistant, 196; not to be interested in any licenced house, 196; otherwise a misdemeanor, 197; consent of recorder to appointment of, in boroughs, 201; out of what fund to be remunerated, 203; notice and statement with regard to reception of patients to be sent to, 74, 211; of escape, 211; of return, 212; of removal, discharge, or death, 212; of cause of death, 213; copies of entries in patients', visitors', and medical visitation book, to be sent to, 222; duty of, on notice that patient is in licenced house, whose state of mind appears doubtful to visiting commissioners, 223; neglect, a misdemeanor, 223; transmission to, of protest of medical attendant against discharge of patient, 228; to register same, 228; copy of notice of special visit of commissioners or visitors to be sent to, 229; search of returns of lunatics by order of visitors, 230; fee for, 230; application of, 203, 230; to pay witnesses' expenses, 242; prosecutions by, 246; notice to be given to, if patient be not removed from asylum after recovery, 276; transmission to, of copies of entries in books, 500.

Clerk to visitors of asylum, to furnish additional information to guardians or overseers, in order that annual return of pauper lunatics may be properly made, 553.

Clerks of commissioners in lunacy, appointment of, 189; salaries of, 189, 625; oath to be taken by, 190, 625; when to be disqualified, 45, 197, 625; how punishable for acting when disqualified, 197;

Clerks of commissioners in lunacy—*continued.*
orders and rules as to duties of, 224; to furnish copy of certificate and order on request of released patients, 214.
Clerks of masters in lunacy, 16, 105.
Clerks of registrar in lunacy, 17, 105.
Clerk to secretary to visitors of lunatics, abolition of office of, 107.
Clothing for patients in pauper lunatic asylums, committee of visitors to contract for, 357. See also Maintenance.
Clothing of paupers in idiot asylum, or in workhouse of another union, payment for, by guardians, 523, 558.
Coercion in licenced houses, hospitals and asylums, inquiries by commissioners and visitors as to, 220, 249.
Coke cited as to cases included in the term lunatics, 5; with reference to the Royal Prerogative as to the custody of the goods and person of an idiot, 7, 8.
Collection of fees and per centages by means of stamps, 19.
Collection of fees in High Court of Justice or in Court of Appeal, 180.
Colonies, etc., provisions of 15 & 16 Vict. c. 86, ss. 22-24, respecting affidavits in the Colonies, etc., extended to matters in lunacy, 119; powers given by Act to extend to, 154.
Commission of Lunacy, mode of proceeding described by Blackstone, 9; writ de idiota inquirendo, 9, 10; present practice, 14; officers in lunacy, 15-18; in the nature of a writ de lunatico inquirendo may be directed to less than three persons, 19, 113; to be directed to masters in lunacy, or one of them, 19, 112; form to be prescribed by Lord Chancellor, 19, 112; general commission may be issued in lieu of special commission, 20, 112; reservation of Lord Chancellor's power to issue special commissions, 20, 116; Lord Chancellor may direct commission to any fit person or persons in addition to the masters or one of them, 20, 116; reference made to, in other Acts, etc., what to apply to, 117; limitation of inquiry under, 12, 21, 167; verdict in common law court to have same effect as inquisition under, 21, 167; provisions with respect to, to apply to issue tried in common law court, 167; reference to, in other Acts, etc., to apply to verdict on issue in common law court, 168; may be superseded upon terms and conditions where application for traverse has not been applied for, 25, 169; issue of, by Lord Chancellor, on report of commissioners, 37, 118, 239; for the purpose of inquiring into mental condition of persons, apparently insane, who may endeavour to gain admittance to the king, 531, 552. See also Inquisition.
Commissioner executing an inquiry, to have power of judge of court of record, 20, 116.
Commissioners for building new churches, conveyance of land to, for purpose of burial ground for pauper lunatics, 477.
Commissioners of Great Seal, exercise by, of Lord Chancellor's powers, 601.
Commissioners for reduction of the National Debt, transfer to, of Suitors' Fee Fund account, 108.
Commissioners in Lunacy, appointment, powers, and duties under former Acts, 624.

Commissioners in Lunacy, change of name to Masters in Lunacy, 104, 184.
Commissioners in Lunacy may report to Lord Chancellor if property of alleged lunatic, but not so found by inquisition, is not protected, 22, 27, 118; or is not applied to his benefit, 22, 27, 118; report to be taken as a petition for inquiry, 22, 27, 118; report of, in the case of alleged lunatic possessing property of limited value, 27, 171; superintendence by, of unlicenced houses where single patients are received for profit, 29; explanatory circular of, to persons having charge of single patients, 32–35; appointment of, 184, 188, 624; to hold office during good behaviour, 185; receiving salaries not to have any other office or employment, 185; salaries to be paid to six of, 185, 625; receiving salaries, how to be qualified, 185, 285; travelling expenses to be paid to, 185; vacancies in number, how to be supplied, 185, 186, 624; may act during vacancies, 186; retiring pensions of, 186, 631; oath to be taken by, 186, 625; administration of oath to, 186; to have a common seal, 187, 625; proof of their licences, orders, etc., 187; election of permanent chairman of, 187, 625; their temporary chairman, 188; questions to be decided by a majority of votes of, 188; secretary to be removable on the application of, 188; appointment of future secretaries by, 188; appointment of clerks by, 189; oath of secretary and clerks may be administered by one of, 190; books, papers, and effects of Metropolitan commissioners to be delivered up to, 190; vesting of property in, 191; may grant licences to houses, in what places, 50, 191; what places within the immediate jurisdiction of, 44, 45, 191; meetings for granting licences, when and where to be held by, 45, 121, 191; practice of, in dealing with applications for licences, 47–50; licences may be granted by what number of, 192; adjournment of meeting by, 192; holding of special meetings by, 192; lists of visitors to be sent to, 194; appointment of clerk to visitors to be communicated to, 195; when to be disqualified, 45, 197, 625; how punishable for acting when disqualified, 197; being physicians, in what cases only may attend patient in licenced house or hospital, 197; notice, plan, and statement, on applying for licences, to be given to, 47, 198, 199; may allow of plans of houses heretofore delivered, 199; licenced houses not to be altered without consent of, 51, 199; copy of licences granted by justices to be sent to, 54, 200; statement as to patients to be sent to, by person applying for renewal of licence, 53, 200; licences to be granted under the seal of, 201; may grant licences, for what period, 201; may reduce charge for licences, when, 202; signing of annual account by, 202; payment of their expenses, provisions as to, 625, 630; may transfer licence, when, 51, 205; may grant licence for new house, when, 206; notice, plan, and statement, on intended change of house, to be given to, 206; may recommend the revocation or non-renewal of licences, 51, 55, 207; copies of regulations as to lunatics in registered hospitals to be sent to, 209; to keep book for registering hospitals, 40, 209; copy of order and medical certificates to be sent to, 73, 211; notices to, of escape and retaking of patients, 211, 212; notice to, of removal, death, or discharge, 212, 213; what statement as to death to be sent to, 213; Crown prosecution

Commissioners in Lunacy—*continued.*
on report of, 214; may increase number of visits of medical attendant, when, 215; may lessen number, when, 215; may order as to form of case book, 216; order prescribing its form, 65; may order transmission of copy of entries in case book, 217; visitations of licenced houses and hospitals by, 217; copies of entries made in books by visiting commissioners and visitors to be transmitted to, 222; reports to, of visiting commissioners on houses and hospitals not within immediate jurisdiction, 224; power to make regulations for discharge of their own duties, and those of their officers, 224, 625; visitation of licenced houses or hospitals by night, 58, 61, 224; discharge of patients by order of, 227, 322; order, how to be signed, 228; statement of reasons of medical attendant against discharge of patient to be transmitted to, 228; registration of same, 228; may order secretary to search amongst returns, and give information as to persons inquired for, 231; may give orders for admission of relatives and friends to patients, 232; patients not to be taken to places of health without consent of, 232; periodical reports to be made by, to Lord Chancellor, 233, 282, 625; to report to Lord Chancellor if property of lunatics is not duly protected or applied, 238; summons of witnesses by, 241; may administer oaths, 242; may examine witness on oath, although not summoned, 507; may direct payment of expenses to witnesses, 242; may order prosecutions, 246; payment of costs and expenses incurred by, 248; to visit every asylum at least once a year, 248, 301; gaols, 248, 576; inquiries to be made at such visits, 249, 302; to visit and examine State and certain other lunatics by order of Lord Chancellor or Secretary of State, 28, 249, 576; may be employed as special visitors, 250; licence granted by, may include two or more houses, 264; may assent to relative or friend of lunatic boarding in licenced house, 269; their sanction to amendment of order or medical certificate for reception of lunatic into licenced house, 272; order of, as to visitation of single patients less frequently than once a fortnight, 33, 273; may request visitors to visit single patient in unlicenced house, 274; annual report with regard to, 33, 274; power to call for reports as to single patients, 274; consent to discharge of, when dangerous, 275; Lord Chancellor may order discharge of single patient in unlicenced house on report of, 275; notice to be given to, in case patient is not removed after recovery, 276; consent of, to transfer of patients to other asylums, 34, 276; notice of discharge of single patient to be transmitted to, 277; notice to be given to, of change of residence of person having charge of single patient, 34, 278; their consent to change of residence of patient for benefit of health, 34, 278; representation of, to Lord Chancellor, with reference to property of lunatics, 278; notice of dismissal of nurse or attendant to be sent to, 75, 279, 303, 380; power of private committee vested in, 36, 280; visitation of workhouses by, 280, 323; may employ person to make inquiry, and report on special cases, 281, 324; copy of regulations as to registered hospitals to be sent to, 43, 281; to make regulations for licenced houses, 282; obstructing execution of orders of, penalty, 283; "board," construction of the word

Commissioners in Lunacy—*continued.*
284; may inspect reports of borough justices on visitation of borough lunatics in county asylums entered among records of court of quarter sessions, 341; and may require a copy of such report to be transmitted to them, 341; their report to Secretary of State, as to borough neglecting to provide asylum or to contract with county, 344; copy of agreement for uniting to be sent to, by the clerk of the peace, 350; entitled to inspect original agreement, 350; their report to Secretary of State as to county or borough being without an asylum for pauper lunatics, 355; as to necessity of enlarging or providing new asylum for county or borough, 356; abstracts of accounts of asylums to be sent to, 381; to be laid before Parliament, 382; copy of annual report of committee of visitors to be sent to, 300, 383; copy of half-yearly list of pauper lunatics in asylum to be sent to, by clerk of asylum, 319, 383; of private patients, 384; copy of annual list of pauper lunatics to be sent to, 385, 545; of quarterly lists of pauper lunatics not in asylums, 389, 544–546; when to consent to removal of pauper lunatic to or from asylum, 403, 474; may order removal of lunatics from asylums, 408; their sanction to amendment of orders and medical certificates, 411; copy of order, etc., as to admission of lunatic into asylum, to be transmitted to, 314, 412; copies of remarks, etc., of visiting commissioners in books of asylum to be sent to, 413; notice as to death of patient in asylum to be sent to, 317, 413; transmission to, of entries in books of asylum, 413; plans, etc., of asylums to be submitted to, 370; to report thereon to Secretary of State, 370; notice to be given to, with regard to discharge, removal, escape, or recapture of lunatic, 416; their approval as to arrangements for care of chronic lunatics in workhouses, 328, 485, 525, 553, 558; transmission to, of statement, etc., on applying for licence, 53, 489; to inspect houses before they are licenced, 489; how with regard to alterations in or additions to licenced house, 54, 489; powers of, when applicable to licenced houses after expiration or revocation of licence, 44, 475; to approve of stipulations in agreement as to burial of pauper lunatics, 476; their approval of resident physician, surgeon, or apothecary, 490; consent of, to persons boarding in licenced houses, 491; discharge of patient admitted on incorrect or defective certificate, 68, 69, 496; transmission of documents to, on admission of patients, 496; notice to be given to, of transfer of pauper patients to list of private patients, and of private patients as pauper patients, 495; visitation of licenced houses singly by, 497; number of visits to be made, 497; powers of commissioner visiting alone, 497; visitation of asylums, hospitals, and gaols, 497; by one or more of the commissioners, 497; powers of, 498; power of, to order removal of lunatic pauper from workhouse, 326, 498, 551; power to order removal of pauper lunatics generally to asylum, 310, 329, 498, 551; effect of order, 499; transmission to, of copies of entries in books of licenced house by commissioners, 500; book of observations as to lunatics to be laid before, on visiting workhouse, 501; permission to patients to be absent on trial, 501, 552; letters addressed to, by private or single patients, to be forwarded un-

Commissioners in Lunacy—*continued.*
opened, 503, 565; statement to be transmitted to, with respect to single patients, 32, 504; may prescribe form of medical visitation book for single patient, 504; discharge or removal of patients from asylum by, 505; visitation of criminal lunatic asylums by, 576, 608; inquiries to be made by, 608; annual report to be made to Secretary of State, 576, 608; report of, on Broadmoor Criminal Lunatic Asylum, 609; may appoint some person to attend meetings of managers of Metropolitan Asylum District, and to take part in their proceedings, 540; regulations of, with regard to the bathing of insane inmates of workhouse, 559, 560; practice of with regard to transfer of licences, 51. See also Reports of Commissioners in Lunacy. Circulars. Visiting Commissioners.
Commissioners under writs de lunatico inquirendo, their powers to be exercised by masters in lunacy, 102.
Commissioners of Police, copies of notices to be transmitted to, 393.
Committal of offenders, 244.
Committee, interpretation of, 502.
Committee of council of borough to have same powers as committee of visitors, 446.
Committee of Estate, security given by, to be approved by masters, 121; security given by money or stock, transfer by authority of masters, 122; survivors, etc., may continue to be, 123; account of, form of allowance by masters, 123; account of, masters may distinguish items in, 124; account of, items so distinguished to be submitted to Lord Chancellor, 124; may appear and take admittance to copyholds, 137; fine may be imposed and demanded, 138; re-entry by, on payment of fine, 138; paying fine on copyhold lands, may reimburse himself, 139; may surrender lease and accept renewal, 139; powers of, as to sale or charge of property of lunatic for payment of debts or maintenance, 140; to act with respect to charge on estate for improvements, 141; may convey land in performance of contracts, 144; may dispose of property of dissolved partnership, 145; may make sale, partition, or exchange of land for benefit of lunatic, 145; may sell land for building purposes, 146; may assign business premises, 146; may dispose of undesirable lease, 147; may make agreements under 1 Geo. i. c. 10, 147; may make building leases, 147; may make leases of mines, 148, 149; may execute leasing powers of lunatic of limited estate, 149; may accept surrender and grant new lease, 150; fines, premiums, etc., on renewal of lease, to be paid to, 150; to exercise powers vested in lunatic for his own benefit, 151; to exercise powers vested in lunatic as trustee, etc., 151; provision as to power of new trustee, appointed by, 152; on intestacy, lunacy, etc., of, stock belonging to lunatic may be transferred, 152; acts of, on traverse of inquisition, to be valid, 153; may be empowered by Lord Chancellor to grant leases binding on issue or remaindermen, 163. See also Estate of Lunatics.
Committee of Guardians, quarterly visitation by, of pauper lunatics in asylums, etc., 300, 321, 386, 552. See also Visiting Committee.
Committee of Justices, appointment of, to provide asylum for county

Committee of Justices—*continued.*
or borough, 299, 338; powers of committee, 339, 470; election of, to provide asylum, when dissolution of union takes place, 472.
Committee of lunatic, appointment by Lord Chancellor, 13; subject to Lord Chancellor's control, 29; lunatic placed by, in care of person for profit, a single patient, 30; order of, a sufficient authority for reception into unlicenced house, 30, 32, 493; into licenced house or hospital, 68; to pay per centage on certificate of masters in lunacy, 109; account to which payment must be made, 112; powers of, in respect of lease or sale of settled estate of the lunatic, 164; order of, for reception into unlicenced house, 234; lunatic under care of, visitation of, by order of Lord Chancellor or Secretary of State, 249.
Committee of management of hospitals, to frame regulations, 43, 281; to be approved by Secretary of State, 281; copy to be sent to commissioners, 281; copy to be hung up in visitors' room, 281; consent of, to patient's removal for benefit of health, 478; to absence on trial, 501, 552.
Committee of person and estate of lunatic removed from India, appointment of, 601.
Committee of subscribers to hospitals, appointment of, to treat for union with county or borough, 339; renewal of contracts with, 475.
Committee of Visitors, appointment of a separate committee for every asylum provided in any county or borough, 297; borough justices may contract with, for reception of borough lunatics into county asylum, 341; visitation of such lunatics by committee, 341; when recorder of borough to appoint justices to be members of, 343, 480; duty of, to prevent nuisance from discharge of sewage from asylum, 362; and to prevent other nuisances in connection with asylum, 363; consent of, to annexation of borough to county by Secretary of State, 344; justices in such case to appoint two members of committee, 344; enlargement of powers of, by justices, 345, 346; appointment of additional members of, 300, 345, 346; reappointment of, when original committee has ceased to exist, 346; not to be subjected to control of quarter sessions further than is provided for by Act, 348; to report to quarter sessions agreement for uniting when entered into and signed, 349; election of visitors to carry same into effect, 350, 351; committee when to be deemed committee for county or borough, 351; how empowered to dissolve unions, 299, 364; annual election of, 351; their powers and continuance in office, 354; what number of justices to be elected on, 352; separate committee to be appointed for each asylum, 352; when not, 352; how if justices neglect to elect committee, 354; supply of vacancies, 355; continuing members to act during, 355; their meetings, 300, 353; adjournment of meetings, 353; to elect a chairman, 300, 353; number of members to constitute a meeting, 353; questions how to be decided, 353; meetings of emergency, how to be called, 353; to appoint a clerk, 353; who may be a clerk to asylum, 354; may sue and be sued in name of their clerk, 443; actions against, 443; to procure and determine on plans for pauper

Committee of Visitors—*continued.*
lunatic asylums, and estimates, 357; to contract for purchase of land for site, 357; in consideration of a rent reserved, 359; power to take land or buildings on lease for a term of years, 359; may be released from contract, 367; to contract for building an asylum, 357; for clothing for patients and necessaries, 357; to report to quarter sessions, plans, etc., before they are executed, 358; how if sessions disapprove of plans, etc., 483; how with regard to conveyance of land for purposes of Act, 361; to appoint new trustees of land purchased or acquired, 361; power to order repairs to asylum to be executed, 362; power to sell or exchange lands or buildings, 364; may contract for reception into asylum of pauper lunatics of other counties or boroughs, 367, 484; limitation as to duration of contract, 367, 368; renewal of, 475; payment of money under, 368; visitation of hospital or licenced house in such case, 368; when they may order admission of private patients into asylum, 369; may require undertaking for payment of charge of maintenance of pauper or other lunatic in asylum, 369; visitors not to be interested in contracts, 369; or to receive emolument for designs or plans, 370; to submit contracts, plans, etc., to commissioners in lunacy, 370; to submit general rules for management of asylum to Secretary of State, 302, 376; how they may alter such rules, 376; and make rules for management and conduct of asylum, and as to officers, 302, 376; to determine diet of patients, 376; to determine number of beds, 302, 376; reserved beds, 376; may exclude infectious patients, 377; to fix rate of payment for maintenance of pauper lunatics, 377, 419, 421, 484; to appoint a chaplain, 303, 378; medical officer, 303, 379; clerk, 300, 379; treasurer, 379; and officers and servants, 379; may remove chaplains and other officers, 379; and fill up vacancies, 379; to appoint visiting physician or surgeon, 379; superintendent of asylum, 379; and remove him, 379; to fix salaries and wages of officers and servants, 379; may grant superannuation allowances to officers, 381, 487; accounts of treasurer and clerk of asylum to be audited by, 382; to enter remarks in visitors' book, 300, 382; annual report of, to justices, 300, 383; copy to be sent to commissioners, 300, 383; of asylums already provided may unite with county or borough or subscribers to hospitals, 340; saving as to such committees, 340; form of agreement, 347; stipulations in agreements, 347; may be varied, 348; may hire land or buildings for purposes of asylums for term of years, 487; may convey land for burial ground for pauper lunatics dying in asylum, 477; may acquire new or enlarge existing burial grounds for pauper lunatics, 485.
Common fund of unions, chargeability to, of fees paid to medical officer for quarterly visitation of pauper lunatics, not in asylum, 389; of pauper lunatics who are irremovable, when there is a breach of residence, 427; of all relief in unions, 329, 331, 428, 539; transfer to, from settlement parish, of charge of maintenance of criminal lunatic, 574; chargeability to, of pauper lunatics who are irremovable, 426–429; cost of maintenance of pauper lunatics in asylums made chargeable to, in all cases, 537; effect of chargeability of

Common fund of unions—*continued.*
lunatics to, 527; payments by guardians for maintenance of insane prisoners to be charged to, 574, 615.
Common Law Court, Lord Chancellor may direct issue as to alleged insanity to be tried in, 21, 167; reception by judge of evidence as to acts of alleged lunatic for more than two years preceding inquiry, 22, 167; verdict of same effect as an inquisition under commission of lunacy, 21, 168; reference in other Acts, etc., as to commission of lunacy, to apply to verdict on issue, 168; examination of alleged lunatic when to be made, 22, 25; to take place in open court or in private, as judge may direct, 21, 168; traverse not to be granted upon trial in, 25, 168; but Lord Chancellor may order new trial, 25, 168.
Common Seal of commissioners in lunacy, 187, 625; licences to be under, when granted by commissioners, 201, 625.
Company, share of, belonging to lunatic may be transferred, 153.
Compensation with regard to liabilities of dissolved unions, 365.
Compensation to secretary to visitors of lunatics, on abolition of office, 107, 180.
Complaint of offence against Act, making of, 243; proceedings upon, 243; hearing of, 243.
Concealment of instruments of restraint from visitors and commissioners, 220; of patients on visits of commissioners or visitors, 220.
Condition of asylum, annual report of committee as to, 383.
Condition of pauper patients, inquiries to be made as to, 220, 249.
Conditions, inquisition may be superseded on terms and conditions, where liberty to traverse has been applied for, 25, 157; where liberty to traverse has not been applied for, 16, 25.
Conditions in agreement for uniting, 347; alteration or repeal of, 348.
Conduct of officers and servants in asylum, annual report as to, 383.
Confinement of persons as insane, prosecution for unlawful, 214; of insane prisoners—see Custody.
Confirmation by justices of superannuation allowances, 488.
Conniving at escape of lunatics from hospital or licenced house, penalty, 502; of criminal lunatic, punishment for, 608.
Consecration of burial ground for pauper lunatics, 477, 485.
Consent, power of, how to be exercised, 151; to alterations or additions to licenced house, 199; of recorder of borough to grant of licence and appointment of visitors or clerk, 201.
Consent to removal of patients for benefit of health, 232, 478; of commissioners or visitors to discharge from licenced house, etc., of patient who is dangerous, or unfit to be at large, 226; of commissioners, visitors, attorney or solicitor general, to prosecution of offenders, 247; of visitors to discharge of dangerous lunatic from asylum, 409.
Consent of visiting justices to visitation by guardians, overseers or medical officers of pauper lunatics in asylums, 386; of Poor Law Board to reception into workhouses of chronic lunatics, 558.
Consolidated Fund, balance of receipts of commissioners to be paid to, 303, 629.

Constables, duty of, with regard to wandering lunatics, 81, 393, 394; lunatics not under proper care or control, 394; cruelly treated or neglected, 394; penalty for neglect of duty, 398; neglecting to execute order for removal to asylum, 399; under order of justices to convey to county asylum, hospital, or licenced house insane person or dangerous idiot who has been apprehended under circumstances denoting a purpose of committing an indictable offence, 583; execution by, of warrant of Secretary of State for retaking of criminal lunatics who have broken conditions of their discharge from asylum, 619.

Constitution of Supreme Court of Judicature, 15.

Construction of sec. 90 of 8 and 9 Vict., c. 100, as to a person taking charge of a single lunatic, 234.

Contagious disease, persons may be excluded from asylum when it prevails, 312, 313; patients affected by, may be excluded from asylum, 302, 320, 377.

Contingency Fund of the Home Office, expenses of persons employed to make special visits to be paid out of, 250, 282.

Contingent expenses of commissioners in lunacy, provision as to, 625, 627-630.

Continuance in office of visitors and clerks appointed under repealed Act, 183; of clerk to committee of visitors, 354; of members of committee, 354.

Contract by committee of visitors for reception of pauper lunatics of other counties or boroughs into asylum, 367, 484; renewal of, 475; limitation as to, 367; determination of, by notice from Secretary of State, 367; liability of justices to provide asylum preserved, notwithstanding contract, 368; how money payable under, is to be raised and defrayed, 368; for reception of borough lunatics into county asylum, 341; renewal of, 475; for reception of pauper lunatics into asylums to be submitted to commissioners, 370.

Contract by justices of county of a city or town having no recorder for reception of their pauper lunatics in other asylums, 516.

Contractors to give security, 357.

Contracts of lunatic, if not disputed, as to the fulfilment of, 144; may be executed by receiver, 263.

Contracts for maintenance of pauper lunatics not to be affected by alteration of dietary, 230.

Contracts for pauper lunatic asylums, 357; for purchase of land for site, 357; visitors may, with consent of Secretary of State, be released from, 367; for erection, etc., of building, 357; for clothing and necessaries for patients, 357; to be entered in a book to be kept by clerk to visitors, and be open to inspection, 357; visitors' report to quarter sessions as to contracts, 358; how if sessions disapprove of them, 483; visitors of lunatic asylums not to be interested in, 369; how when a shareholder in joint stock company contracting, 370; for reception of pauper lunatics into asylums, etc., and for purchase of buildings, etc., 370; to be submitted to commissioners, 370.

Contributions of boroughs annexed to counties towards expenses of asylum, 343; in counties to pay costs and expenses of asylums,

Contributions—*continued.*
371; by counties and boroughs, stipulations as to, 471; how to be ascertained, 472; in aid of burial grounds for burial of pauper lunatics, 485.
Conveyance, interpretation of, 101; made under Act to be valid, 152, 174; costs of, may be paid out of lunatic's estate, 154.
Conveyance of land purchased for pauper lunatic asylum in consideration of a rent-charge, 359; of land purchased or exchanged, to whom to be made, 361; of land or buildings sold by committee of visitors, with consent of Secretary of State, 365; land for burial ground for pauper lunatics, 477; purchased or taken in exchange, etc., for pauper lunatic asylums, to clerk of the peace for the county, 361, 517.
Conveyance of pauper lunatic to asylum, 312, 391, 392, 395; payment of expenses, 397, 420.
Conveyance to asylum of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 584; order for payment of expenses, 584; to county asylum of criminal lunatic, order for payment of expenses, 572, 590.
Conveyance of lunatics to criminal lunatic asylum, 607, 619.
Conveyance of pauper to idiot asylum or to workhouse of another union, payment by guardians for, 523, 558.
Conveyance of criminal lunatic to asylum which is not a criminal lunatic asylum, 619; provisions of secs. 9 and 10 of 23 and 24 Vict. c. 13 to apply in such cases, 619.
Conviction of offenders by justices, 243; form of it, 244; not to be void through informality, 244.
Convict prisons, directors of, to be deemed visiting justices, 615.
Copies of orders in lunacy to be furnished by the registrar, and to be evidence, 134; to be acted upon by Accountant-general and Bank of England, 177.
Copies of licences, orders, and instruments, when receivable in evidence, 187; of order and certificates to be furnished to released patients upon request, 214; of entries in case book, transmission of, 217; of entries made in visitors', patients', and medical visitation book by visiting commissioners and visitors to be sent to commissioners, 58, 60, 61, 222; of entries made by visitors to be forwarded to clerk of visitors, 223; to be laid before justices, 223; penalty for omitting to transmit copies, 223; of minute made in patients' book by visiting commissioners as to doubtful patient, to be sent to clerk of visitors, 223; clerk to communicate same to visitors, 223; omission to send copy or communicate same, a misdemeanor, 223; of notice of second special visit to doubtful patient, transmission of, 229; of order and certificates on reception of single patient into unlicenced house, transmission of, 32, 235; omission to transmit same, a misdemeanor. 236; of reports of private committee on visits to unlicenced houses to be entered in private register and laid before Lord Chancellor, 237; how copies of notices, statements, etc., are to be sent or transmitted, 248; of statement of death of patient to be transmitted to coroner, 276; of order and certificates to be furnished on transfer of patients, 277;

Copies—*continued.*
of mortgages to be kept by clerk of the peace, 372; of entries made by visiting commissioners in visitors' book of licenced house to be sent to commissioners, 500; by visitors, to clerk to visitors, 500.
Copy of Act to be kept, bound up with visitors' book, 222, 284; of licence for reception of Inmatics to be sent to commissioners, 54, 200; of order and certificates to be sent to commissioners or to clerk to visitors, 211; of statement as to death, by and to whom to be sent, 213; of plan of premises to be hung up in licenced house, 222; of regulations for registered hospitals to be sent to commissioners and hung up in visitors' room, 208, 209, 281; of regulations in the case of licenced houses, 282; to be sent by commissioners to proprietor, 282; of quarterly list of paupers not in asylums, transmission to clerk to visitors, 80, 389, 545, 546; of annual list of pauper lunatics to be sent to commissioners, 385, 545.
Copyhold, committee of estate to appear and take admittance, 137; in default, the lord may appoint attorney to take admittance, 138; fine upon admittance, imposition, and demand of, 138; if not paid, lord may enter and receive rents and profits, 138; lord to account yearly, 138; re-entry on payment of fine and costs, 138; committee making payment may reimburse himself, 139; unlawful fines may be controverted, 139; no forfeiture for not appearing or not paying them, 139.
Coroner, statement as to death of patient in licenced house or hospital, to be sent to, 276; may summon jury to inquire into cause of death, 276; death of patient to be reported to, 24, 318, 505; duty of, on holding inquest, 441.
Correspondence relating to patient, inspection of under 14 & 15 Vict. c. 99, s. 6, 221; of private patients in asylum, 36, 76, 502–504, 565, 566.
Costs, allowance of, for affidavit, 120; allowance and taxation of, 125; persons insisting on report liable to, 125; order for payment of, 126; masters may disallow, 130; payment of, on application being made to Lord Chancellor, 126; masters to certify, before allowance, 130; as to costs of documents of unnecessary length, 130; of inquisition, etc., property of lunatic may be sold or charged for payment of, 140; may be paid out of estate, 154; order for taxation and payment after death of lunatic, 165; where alleged lunacy was not proved, refusal of Lords Justices to order payment by parties who presented petition, 25; of any petition, inquiry, inquisition, issue, traverse, or other proceeding, Lord Chancellor may order payment, 25, 170; either by party presenting or by party opposing petition, or out of the estate, or partly in one way and partly in another, 26, 170; such orders to have same force as orders made by Court of Chancery, 26, 170; of inquiry, inquisition, sale, or mortgage, property of lunatic may be charged with, 173; monies applicable for payment of, 202; of care of person and estate of lunatic, 239; distress for, 243, 244; may be awarded by quarter sessions on appeal against conviction, 245; recoverable by defendant in actions, 246.
Costs, on abandonment of order adjudicating settlement of pauper

Costs—*continued.*
lunatic, 439; of appeal against order adjudicating settlement of pauper lunatic, 438.
Costs of proceedings by commissioners, 248; by visitors, 248.
Costs of removing lunatics ordered by visitors to be discharged from asylum, how to be defrayed, 407.
Costs in appeal against order of justices in the case of insane prisoners, 592.
Council of boroughs, how to raise money to defray costs and expenses of asylum, 371; may direct payment out of borough fund, 371; may mortgage rates for such expenses, 372; may apply to Public Works Loan Commissioners to advance money, 373; how to provide for payment of interest, 373; to inspect accounts with regard to mortgages, 374; empowered to raise money to pay off previous loans, 375; to exercise same duties as to erecting asylums as are conferred upon justices, 446; committees of, to have same powers as committees of visitors, 446; powers of, under Acts, 473.
Council of supervision of criminal lunatic asylum, appointment of, 604; supply of vacancies, 604; certified rules to be binding on, 605; to superintend and direct management of asylum subject to the rules, 605; to report to Secretary of State, 605; order for removal or discharge of lunatic may be made on certificate of two members, 606.
Counties, union of, for the purpose of providing pauper lunatic asylums, 338, 470.
Counties of cities or counties of towns in England and Wales having no recorder, list of, 515, 516; powers of justices of, with regard to contracting for reception into asylum of lunatics belonging to their city or town, 516.
Counties, claim of, to contribution from parliamentary grant, in aid of cost of maintenance of pauper lunatics in asylums and licenced houses, 563, 564.
County defined, 251, 448, 508, 512; what to comprise, 253, 515, 595; provision of more than one asylum for one county, 297; and appointment of a separate committee of visitors for each such asylum, 297; order on, when settlement of pauper lunatic cannot be ascertained, 332, 423, 424; how when settlement is afterwards ascertained, 425; reimbursement of county in such case, 425; when borough to be annexed to, 343, 473; annual election of committee of visitors for, 351, 352; discharge of patient chargeable to, notice to be given, 276.
County of a city or county of a town, admitted as parties to original agreement, 512.
County of Hertford and Liberty of St. Alban, special provisions as to, 448; of Sussex, provisions with reference to, 448; Palatine of Lancaster, abolition of jurisdiction of Court of Chancery of, with regard to lunatics, 101.
County asylum, provision of, by justices, 338; when Secretary of State may require justices to provide, 355; enlargement of, or provision of new asylum by justices, 356; when dissolution of union takes place, 472; admission of private patients into, by order of committee of visitors, when, 369; visitors of, to make out accounts as

County asylum—*continued.*
to paupers sent to, from boroughs not contributing to cost of erection, 522, 523, 557; form of order of Secretary of State for removal to, of insane prisoner, 574; cost of maintenance of pauper lunatics sent to, from a borough, 332, 522, 523; grant from Parliament in aid of cost of maintenance of pauper lunatics in, generally, 332, 563; claim for repayment by guardians, 562, 563; by counties, 563, 564; by boroughs, 564; for what purpose it is to be provided, 228.
County rate defined, 251, 450; costs and expenses of asylums to be paid out of, 371; application of balance in hands of clerk of peace in aid of, 204; excess of payments over receipts by clerk of peace may be paid out of, 204; assessment of land and buildings to, 360. See also Treasurer of county.
Court, to order person charged with treason, murder, or felony, and acquitted on the ground of insanity, to be kept in custody, 579; to order custody of persons indicted for any offence and found to be insane, 580; to order person charged with misdemeanor and acquitted on the ground of insanity, to be kept in custody, 591.
Court of Appeal in Chancery, jurisdiction of Lords Justices of, under Lunacy Regulation Act or other Acts relating to lunatics, 100.
Court of Appeal, as to transfer to, of jurisdiction of the Sovereign in Council and of Judicial Committee of the Privy Council, in regard to appeals from orders of Lord Chancellor or other persons, 179; and of Lords Justices of Appeal in Chancery with regard to lunatics, 180; collection of fees in, 130.
Court of Chancery, cognizance of, in certain cases of alleged lunatics, 3; proceedings on commission, 14; orders of, for application of property of lunatics not so found by inquisition, 171; of County Palatine of Lancaster, abolition of jurisdiction of, with regard to lunatics, 101; Accountant-General of, abolition of office of, 177. See also Private lunatics.
Court of Record, powers of judge, commissioner acting with jury on inquisition to have, 21, 116.
Courts to asylums, enlargement, etc., of, 357; additions, etc., to, 362.
Courts, fees and per centages to be taken in, on proceedings in lunacy, 19.
Court-martial, custody of persons in navy found insane on trial by 617; directions of Admiralty as to, 617.
Criminal charge, person imprisoned for, how to be dealt with on becoming insane, 612, 614.
Criminal lunatic asylum, recommendation of Select Committee, as to establishment of, 570; appointment of, by Royal warrant, 603; confinement of criminal lunatics by direction of Secretary of State, 603; general register to be kept in, 604; appointment of council of supervision, 604; of officers and servants, 604; rules for government and management of, 605; council of supervision to superintend and manage under such rules, 605; removal or discharge of lunatics from, 606; visitation of, by commissioners in lunacy, 576, 608; report thereon, 576, 608. See also Broadmoor Criminal Lunatic Asylum.
Criminal lunatics, what meant by the expression, 567, 618; offenders who

Criminal lunatics—*continued.*
become insane, 568; citation from Blackstone, 568; case of Hadfield, 569; case of Townley, 573; confinement of, in county gaols, etc., 570; provisions with regard to their maintenance, 570–573; erection of prison in connexion with Bethlehem Hospital for reception of, 571, 575; accommodation for in Fisherton-house, 575; power of Lord Chancellor to direct application of property of person acquitted on the ground of insanity, 28, 173, 575; powers of commissioners and visitors to order discharge not to extend to, 229; visitation and examination of, 248–250, 576; saving as to former Acts, 285; removal or discharge of, by direction of Secretary of State, 285, 576; statutes relating to, 578; custody of, when charged with treason, murder, or felony, and acquitted on ground of insanity, 569, 579; when indicted for any offence and upon arraignment found to be insane, or so found upon trial, 569, 580; prisoners becoming insane, adjudication of settlement, 588, 589; order for payment of charges for inquiring into prisoner's sanity, and conveyance and maintenance in asylum, 590; how when settlement cannot be ascertained, 572, 590; power to apply prisoner's property towards expenses, 575, 590; custody of, when charged with misdemeanor and acquitted on the ground of insanity, 569, 591; adjudication of settlement and orders for payment of maintenance and other expenses, 592; appeals against orders, 592, 593; insane person, what to include, 595; how to be dealt with on becoming of sound mind, 596; provision of asylums for, 693; confinement of, by direction of Secretary of State, 603; removal of, from county asylum to criminal lunatic asylum, 603; certificate to be transmitted to superintendent, 604, 609; authority of the Crown and of Secretary of State to make other provision for custody, not to be affected, 604; council of supervision to superintend care and treatment of, 605; religious instruction of, 605; removal or discharge of, 606; absence on trial or upon conditions, 606, 619; retaking of, 607, 619; expenses of conveyance and maintenance, 607, 619; retaking of, after escape, 607; rescue or permitting escape, punishment for, 607, 608; ill-treatment or neglect, penalty, 608; visitation and inquiries by commissioners in lunacy, 608; prisoners under sentence of transportation, penal servitude, or imprisonment, or under a charge of any offence, or for not finding bail, or to answer a criminal charge, or in consequence of any summary conviction, etc., how to be dealt with on becoming insane, 613, 614; how when under sentence of death, 613, 614; provisions of former Acts to apply to such cases, 615; chargeability of maintenance to common fund, 574, 615; form of order of Secretary of State for removal of, to county asylum or licenced house, 574; transfer of charge of, from settlement parish to common fund, 574; committed under Royal warrant, as to obligation of keeper of licenced house to receive, 575; temporary absence of, from asylum, on trial or otherwise, 576; may be removed from India to United Kingdom, 576, 577; provisions in secs. 9 & 10 of the 23 & 24 Vict. c. 75, as to conveyance to, maintenance in, and temporary absence from criminal lunatic asylum, to apply to criminal lunatics in any other asy-

Criminal lunatics—*continued.*
lum, 619; expiration of term of imprisonment of, before evidence of his sanity is given, subsequent treatment of, as a pauper lunatic, 620; and removal of to asylum, 620, 621; applicability of provision in 30 & 31 Vict. c. 12, s. 6, to criminal lunatics whose term of imprisonment expired before passing of that Act, 622, 623; parish upon which order has been made under that section not liable to refund any other parish any money which such other parish may have already expended, 623; order for adjudication of settlement of, and for payment of charges, etc., after expiration of prisoner's sentence, 589; whether order for repayment of maintenance can be made retrospective, 591; sentenced to death for murder committed in a borough, but lunatic confined in county gaol under contract, and from thence sent to Broadmoor, whether visiting justices of county are the proper justices to inquire into lunatic's settlement, 588; maintenance of, in licenced house, as to payment for, by guardians without order of justices, 589; discharge of, from asylum, 619; conditionally, on breach of conditions he may be retaken, 619.

Criminal lunatic asylum, at Broadmoor, number of inmates, 576; classes of inmates, 603; order of justices upon guardians for maintenance of insane prisoner in, 594, 595; service of order need not be accompanied by grounds of order or by particulars of settlement, 595; superannuation of staff of Broadmoor Lunatic Asylum, 605; provisions in secs. 9 & 10 of the 23 & 24 Vict. c. 75, as to conveyance to, maintenance in, and absence from, criminal lunatic asylum of criminal lunatics, to apply to any other asylum, 619.

Cross-examination, persons giving evidence by affidavit liable to, 120.

Crown prosecutions, when to be directed, 214.

Crown, share of profits of idiots' estate by, 10.

Custody of born idiots, 7; formerly in lord of the fee, 7; given to the King, 7, 8, 95; by committee, 13; by Lord Chancellor, 13.

Custody of lunatics, 9; by the King, 9, 95; by Lord Chancellor, 13; by committee, 13; Lord Chancellor may make orders for on traverse of inquisition, 25; similar power of masters in lunacy, 25; if grant of custody of lunatic be not under Great Seal, order of Lord Chancellor to have same effect, 121; grant of, may be extended, 122; grant of, application of lunatic's property, when very small, without, 142; grant of, application of temporary lunatic's cash for his maintenance without, 143; of person, under traverse of inquisition, 25, 156.

Custody of private register, 237.

Custody of criminal lunatics charged with treason, murder, or felony, and acquitted on the ground of insanity, 569, 579; indicted and upon arraignment found to be insane, or so found upon trial, 580; charged with misdemeanor and acquitted upon the ground of insanity, 569, 591; charged with offences removed from India to United Kingdom, 597, 598.

Custody of unthrifts and prodigals, Roman law as to, 5; grant of, by King, to a guardian, 11, 12; begging of custody from King, 11, 12; of persons and estates of lunatics or idiots, jurisdiction of Lords Justices of Court of Appeal in Chancery, 100; of lunatics

Custody—*continued.*
not so found by inquisition, order of Chancery Division of High Court of Justice as to, 171; of persons and estates of idiots and lunatics, powers vested in Lord Chancellor or Lords Justices of Appeal in Chancery, not transferred to High Court of Justice, 179; of persons apparently insane, who may endeavour to gain admittance to the King, 581, 582; upon becoming sane, they may be discharged from, 582; of persons in navy found insane on trial by court-martial, 617; directions of Admiralty, 617.
Dangerous lunatics, meaning of the term, 518; not to be discharged from asylum without consent of visitors, 409; transfer of, to other asylums, 409; detention of in workhouses, 325, 492, 521, 557; in workhouses prohibited, 325, 518; when not to be discharged, or removed from licenced house or hospital, 226, 322; transfer from one asylum to another, 226.
Dangerous single patient in unlicenced house not to be discharged, 275.
Dangerous idiots. See Insane prisoners.
Deaf and dumb person, indicted for larceny, and found at the trial to be insane, 580.
Deaf, dumb, and blind, persons so born, in law, idiots, 4; becoming so after birth, technically lunatics, 5; cases of Laura Bridgman and Oliver Caswell, 4.
Death of R. W. S. Lutwidge, commissioner in lunacy, 188.
Death, duty of relative or other person to give information to registrar, 414; the information need not be given at once, if a notice and medical certificate be sent to registrar, 414; duty of registrar to register any death which occurs in his sub-district, without reward, except when he registers the death at the house where the person died, 414; certificate of medical practitioner as to cause of death to be sent to registrar, 415; penalty for not sending, 415; deaths generally, registration of, 414, 441; of lunatic in asylum, registration of, 414; inquest on bodies, 441; registration of, in such cases, 505, 506; and certificate of cause of death, 505, 506.
Death of person appointed committee of estate or of person, grant may be extended to survivors in certain cases, 123; of person found lunatic by inquisition, reports of visitors of lunacy to be destroyed on, 23, 137; of patient, Lord Chancellor may specially order reports of visitors of lunatics not to be destroyed until, where inquisition has been superseded, or discharged on traverse, 24, 137; of lunatic, money remaining on account of produce of newly opened mines, to be considered real estate, 149; money arising from fines, premiums, etc., received on renewal of lease, how to be dealt with, 150; of committee of estate, intestate, stock belonging to lunatic may be transferred, 152; of lunatic, remedies against lessee by persons to whom reversion expectant may belong, 163; of lunatic, order for taxation and payment of costs subsequent to, 165; of patient, 77, 323; entry to be made with regard to, 212; notice to be given, 34, 212, 213, 236; form of notice, 35, 259; of cause of, 213; statement of medical attendant with regard to, 78, 213, 323; to be sent to commissioners or to clerk to visitors, and to registrar of deaths, 213; to be entered in medical visitation

Death—*continued.*
book, 216; of person licenced before expiration of licence, 205; of lunatic in licenced house or hospital, statement of, to be entered in case book, and copy sent to coroner, 276; of lunatic in asylum, undertaking for payment of expenses of burial, 369; notice and statement with regard to, 317, 413; form of notice, 463; entries to be made with regard to, 317, 415; notice of to be given to relative, 317, 495, 551; notice to clerk of peace, 415; proceedings against superintendent for furnishing defective certificate, 317; form of register, 466; of single patient to be reported to coroner, 34, 505; of member of committee of visitors, how vacancy caused by, is to be supplied, 355; of member of council of supervision of criminal lunatic asylum, 604; case of Townley under sentence of, 573; prisoner under sentence of, becoming insane, how to be dealt with, 614. See also Register of Discharges and Deaths.
Debt, lunatic prisoners for. See Lunatic prisoners for debt.
Debts of lunatic, his property may be sold, etc., for payment of, 140; Act not to subject lunatic's property to, otherwise than according to existing law, 154; of lunatic, Lord Chancellor may order lunatic's property to be charged with, 173; incurred by guardians of the poor, limitation of time for payment, 535; power of Poor Law Board to extend the time, 535; provision for actions against guardians, 536.
Decay of faculties through old age, imbecility arising from, would constitute lunacy, 236.
Decision of court on appeal to be final, 438.
Deeds, masters may receive or deliver out deeds, etc., of lunatic, 123; executed under Act to be as valid as if lunatic had been of sound mind, 152.
Defective certificates, discharge of patient on account of, 70, 496; amendment of, 271, 411, 496.
Defendant. See Actions.
Delay, masters to inquire concerning, 130.
Delirium tremens, restraint of persons suffering from, 89–91.
Depositions, as to settlement of pauper lunatics, a copy of, to be supplied by clerk to justices, 435.
Deptford, jurisdiction of commissioners in lunacy as to, 45, 191.
Description of house intended to be licenced to accompany notice of application for licence, 198, 206.
Description of officers in asylums, rules as to, 376.
Designs, visitors of asylums not to receive emoluments for, 370.
Detention of lunatic confined under 2 & 3 Wm. iv. c. 107, order under 8 & 9 Vict. c. 100, not necessary, 182; of doubtful patient, entries to be made in patients' book, 223; of single patients in unlicenced house after discharge ordered by Lord Chancellor, a misdemeanor, 238, 275; of lunatics in asylum, 411; in licenced house after withdrawal of licence, a misdemeanor, 479; of private patients when becoming panpers, 495; of pauper patients when becoming private patients, 495; in workhouses of dangerous lunatic prohibited, 325, 492, 518, 561; of paupers on the ground of insanity, 324, 521, 557; of letters of private patients, penalty for, 504.

Detention of persons in district schools and district asylums on ground of insanity, 521, 557.
Detention of lunatics in workhouse, certificate of medical officer for, 561, 562; to be laid before visiting commissioner, 562.
Detention of harmless lunatics in workhouse, against their will, 326, 327.
Determination of contract for reception of pauper lunatics into county or borough asylums, 367, 368.
Diet of patients generally, observations of commissioners on, 75; of lunatics in workhouses, inquiry of commissioners as to, 280, 324; of patients in asylums to be determined by committee of visitors, 302, 376; of pauper patients, inquiries to be made as to, 220, 249, 314, 321; regulation of, by visitors, 229, 314, 321; by visiting commissioners, 230, 321; existing contracts for, not to be affected, 230; of lunatics in workhouses, entries to be made with regard to, 501, 552.
Directors of convict prisons to be deemed visiting justices, 615.
Disallowance by Lord Chancellor of items distinguished by masters in account of committee or receiver, 124; of costs by Lord Chancellor, 130.
Disapproval of plans, estimates, and coutracts, by court of quarter sessions, 483.
Discharge of lunatics from asylum by order of person who signed order for his reception therein, 408; how if such person is dead or incapable of acting, 409; how if patient be dangerous, 322, 409; entries to be made with regard to, 415; notice of, to be given to commissioners, 416; form of notice, 462; form of register, 466; by commissioners of private patient, 274; of pauper lunatics from asylums, etc., 316, 322, 405; notice of visitors as to, 406; on undertaking of relative or friend that he will be no longer chargeable, 407; how expenses of are to be borne, 323, 441; from asylum, service upon guardians of order of justices for payment of cost of, 442.
Discharge of lunatic from licenced house after licence has expired, 475.
Discharge of patients from licenced house or hospital, 77; entry to be made with regard to, 212; notice to be given, 34, 212, 213; person signing order for admission may direct, 225; how if such person is dead or incapable, 225; of pauper patients, 225; of patients certified to be dangerous, 226; of patients by visiting commissioners, 227; by visitors, 228; signing of order for, 228; special visits, previous to, 228; examination of medical attendant before, 228; transmission of statement by medical attendant against, 228; interval between the two special visits, for, 229; notice of second visit for, when and to whom to be given, 229; powers of, not to extend to persons found lunatic by inquisition, 229; nor to State or criminal lunatics, 229.
Discharge of patients from licenced house on trial, 501.
Discharge of single patient from unlicenced house, 37, 275; form of notice, 35; how when dangerous, 275; by order of Lord Chancellor, 275; after recovery, 276; notice of, to be sent to commissioners, 277; from county or borough asylums, 410.
Discharge from custody, of persons who, whilst temporarily insane, attempt to gain admittance to the King, 582.

Discharge of lunatics upon trial, from asylum, 405; allowances to, 405; in what event they may be retaken, 406.
Discharge of lunatics by commissioners when certificates are defective or incorrect, 70, 496.
Discharge of criminal lunatics, extension of previous Acts to criminal lunatic asylums, 606; on what certificates order may be made, 606; after expiration of term of imprisonment, 606; from asylum of criminal prisoners on becoming sane, 614; from county asylum, hospital, or licenced house, of persons who may cease to be insane or dangerous idiots, 586; from asylum, 619; when conditions of, are broken, lunatic may be retaken, 619. See also Secretary of State.
Discharged patient, retention of, in licenced house, 269; charitable fund for, 317.
Discharges and Deaths, register of. See Register of Discharges and Deaths.
Diseases, contagious or infectious, patients afflicted with, or coming from district where prevalent, may be excluded from asylum, 302, 312, 377.
Dismissal of nurse or attendant from hospital or licenced house, notice of, to be sent to commissioners, 75, 279; of officers and servants of asylums, 379; of nurse or attendant to be reported by clerk of asylum to commissioners, 303, 380.
Disorder, form of patients', to be entered in book of admissions, 210, 211.
Disqualification of person to act as commissioner, visitor, secretary, clerk, or assistant, 197; disqualified persons so acting guilty of a misdemeanor, 197.
Dissenting ministers, visits of, to patients in asylums, 303, 378; in criminal lunatic asylum, 605.
Dissolution of unions for providing pauper lunatic asylums, 299, 364; division of property belonging to them, 364; new asylum to be provided in such case, 472.
Dissolution of Gilbert's Unions, 420.
Distress for penalty and costs, 243, 244; recovery of money by, 442.
District not a borough or part of borough when to be annexed to county, 447.
District asylum, detention of paupers in, on ground of insanity, 521, 557.
District auditors, claims of counties and boroughs to contribution from parliamentary grant in aid of cost of maintenance of pauper lunatics in asylums or licenced houses, to be examined and signed by, 563, 564, 565.
District schools, detention of paupers in, on ground of insanity, 521, 557.
Dividends, interpretation of, 101, 263; on Government or Bank stock standing in lunatic's name, power of receiver of estate to receive, 262.
Divine service in licenced houses and hospitals, inquiries to be made with regard to, by commissioners and visitors, 220; in asylums, inquiries to be made with regard to, by commissioners, 249; celebration of, 378.

Division of property on dissolution of union, 364.
Documents relating to patient, production of, under 14 & 15 Vict. c. 99, s. 6, 221; production of, to visiting commissioners and visitors, 221; to be kept by clerk of asylum, 381; transmission of, to commissioners, on admission of patients, 496.
Double costs, when they may be recovered, 246.
Doubtful patients in licenced house, proceedings of visiting commissioners in such case, 223.
Doyle, Mr., evidence of, on detention of pauper lunatics in workhouses, 324.
Dulwich, jurisdiction of commissioners in lunacy as to, 45, 191.
Dumb, deaf, and blind persons. See Deaf, dumb, and blind.
Duration of appointment. See Tenure of office.
Duties of visitors of lunatics, 23; of masters in lunacy, 17, 102, 103; of officers in lunacy may be regulated by Lord Chancellor, 26, 158; of secretary to commissioners in lunacy, 188; orders and rules of commissioners as to, 224; of visiting commissioners, 216; of commissioners, secretary, clerks, or servants, orders and rules as to, 224, 625; of chaplain of asylum, 378; of officers in asylum, rules as to, 376; of councils of boroughs under Acts, 473; of visiting committee, 501; of officers of criminal lunatic asylum, 605; of Lords Justices of Court of Appeal in Chancery, under Lunacy Regulation Act, 1853, or other Acts relating to lunatics, 100.
East Ham, jurisdiction of commissioners in lunacy as to, 45, 191.
East India Company, expenses of removing insane persons charged with offences in India to be borne by, 598; recovery of expenses by, 598, 599.
Election of chairman of committee of visitors, 353; of permanent chairman of commissioners in lunacy, 187; of temporary chairman, 188; of visitors after agreement for uniting has been entered into and signed, 350; annual election of visitors, 351; number of justices to be elected on committee, 352.
Emergency, how meeting of committee of visitors is to be called in cases of, 353.
Employment of inmates of pauper lunatic asylums, 314; hire of land for, 359.
Endorsement of order for removal of pauper lunatic to asylum, 405.
England, transmission to, from Ireland of inquisition and supersedeas, 117.
England and Wales, Acts relate principally to, 15, 101, 254, 586, 595.
Enlargement of asylums for pauper lunatics, 356; contracts for, to be submitted to commissioners, 370; of burial grounds for pauper lunatics, 485; of powers of committee of visitors by justices, 345, 346.
Entries to be made in medical visitation book, 74, 215, 235; in case book, 65, 74, 78, 216; commissioners may require copies of entries therein to be furnished to them, 216; in visitors' book, patients' book, and medical visitation book, by visiting commissioners in lunacy, 52, 218; by visitors, 219; copies of, to be sent to commissioners and clerk to visitors, 58, 60, 61, 223; copy sent to clerk to be laid before justices, 223; penalty for

Entries—*continued.*
omission to transmit copies, 223; in patients' book by visiting commissioners, as to doubtful patients, 223; copy to be sent to clerk of visitors, 223; clerk to communicate same to visitors, 223; omission to send such copy or communicate same, a misdemeanor, 223; in patients' book, of notice of second special visit to doubtful patient, 229; in medical journal with regard to single patients visited less frequently than once a fortnight, 273; untrue entry a misdemeanor, 273; in respect of patients generally, 412; in case book, 412; copy of, in visitors' book, patients' book, and medical visitation book of licenced house, made by visiting commissioner, to be sent to commissioners, 500; and to clerk of visitors, 500; of visiting commissioners in books of asylum, to be sent to commissioners, 413; to be made by visiting committee of workhouse, with respect to lunatics in workhouse, 501; to be made in medical journal, 412; of patients in book of admissions, 210; penalty for omitting to make entry, 210; making untrue entry a misdemeanor, 210; of removal, discharge or death of patient, 212; in private register, as to patients in unlicenced houses, 237; false, in medical visitation book, indictment for, 74, 220; in register of patients, 411; to be made in visitors' book to be kept in asylum, 382; in register of patients, 415.

Erection of pauper lunatic asylum, committee of visitors to contract for, 357; committee of justices to superintend, 338.

Escape of patients, 76, 321; notice to be given of, 211, 236; certificate to remain in force, 233; power of retaking patients after, 240; of lunatics from asylum, 315, 406, 411; notice to be given to commissioners, 416; penalty for wilfully permitting or conniving at, 443; penalty for conniving at, 502.

Escape of criminal lunatic from criminal lunatic asylum, by whom he may be retaken, 607; persons conniving at, guilty of felony, 608; penalty for carelessly allowing, 608.

Establishment of Local Government Board in lieu of Poor Law Board, 385.

Estates of unthrifts or prodigals, 5; of born idiots, 7; formerly vested in lord of the fee, 7; afterwards in the King, 7, 8, 95; management by, 7; revenue, 7, 10; of lunatics, 7; vested in the King, 10, 96; management and application of, 10, 96; after inquisition, 13; by committee, 13; of lunatics, management and administration of, provisions with regard to, 24; Lord Chancellor empowered to dispose of, 24; his power to extend to all land and stock, 24; to make orders for management on traverse of inquisition, 25; similar power of masters in lunacy, 25; allowance for maintenance of family, 96; expenses of administration under authority of Lord Chancellor defrayed by per centages and fees, 18, 108; scales, 18, 19, 109, 110; masters in lunacy to conduct inquiries and other matters, formerly referred to masters in Chancery, 17, 102; if grant of custody be not under great seal, order of Lord Chancellor to have same effect, 121; masters may authorize transfer of stock, 123; proposal as to managing, etc., may be received by masters, 124; other proposals may be received by masters, 124;

Estates—*continued.*
masters to cease from proceeding on proposal or inquiry, pending application to Lord Chancellor by persons objecting, 125; masters may certify as to propriety of proposal with regard to costs, 125; masters to report on proposal if required, 125; payment of costs, when application is made to Lord Chancellor and not to masters in the first instance, 125; masters may inquire respecting stock, etc., of lunatic residing out of jurisdiction, 129; money orders to be acted on by Accountant-general, 134; certificate of masters to be acted on, by Accountant-general, 135; as to the management and administration of, 137–154; charges of renewal of lease to be charged on, 139; of lunatic, incumbrances on his property may be sold, etc., for payment of, 140; expenses of improvements to be charged on, 141; surplus monies to be of same nature as estate sold, etc., 142; produce of newly opened mines, application of, 149; powers of leasing on limited estate, 149; application of fines, premiums, etc., on committee executing leasing powers of lunatic having limited estate, 150; fines, premiums, etc., on renewal of lease, how to be paid and applied, 150; stock may be transferred, 152; order for transfer, who to make, 153; money arising by fines, on death of lunatic, how to be considered, 154; costs of petitions, etc., may be paid out of, 154; management of, under traverse of inquisition as to, 25, 156; application of sec. 151 of 16 & 17 Vict. c. 70 to orders made pending new trial or inquiry, or petition for inquiry, 169; payment of costs out of, Lord Chancellor may order, 25, 170; may stand charged with monies advanced for maintenance, costs of inquiry, sale or mortgage, 173; protection of, 239; management of, 239, 261, 262; power to receive dividends on Government or Bank stock, or annuities standing in lunatic's name, 262; of unthrifts or prodigals, Roman law as to, 5; of idiots, entrusting care of, to some person who shares profits with the Crown, 10–12; of lunatics, per centages on, to be fixed by Lord Chancellor, 19, 180; settled, powers of guardians of infants in respect of leases and sales of, 164; powers of committee of lunatic, 164; and of assignee of bankrupt or insolvent, 164; of lunatics or idiots, powers of Lord Chancellor or Lords Justices of Appeal in Chancery in regard to, not transferred to High Court of Justice, 179; of idiots, custody of, powers of Lords Justices of Court of Appeal in Chancery, 100; transfer of powers to High Court of Justice or to Court of Appeal, 180; of lunatic, payment of cost of his maintenance out of, sec. 94 of 16 & 17 Vict. c. 97, as to reimbursement from estate of cost of his maintenance, only applies during lifetime of lunatic, 416. See also Committee of Estate. Copyhold. Property of lunatics.

Estate-tail vested in lunatic, Lord Chancellor may empower committee of estate to grant leases binding on issue or remaindermen, 163.

Estate in lands purchased or acquired for asylum, to vest in trustees, 362.

Estate of lunatic, how it may be made applicable to his maintenance, 416, 430.

Estate of insane paupers, recovery of expenses of maintenance from, 525.

Estate of criminal lunatic, acquitted on the ground of insanity, and

Estate—*continued.*
which had been previously conveyed by him upon certain trusts, 591.
Estate of married women, 172.
Estimates for pauper lunatic asylums, 357; report to quarter sessions as to 358; to be submitted to commissioners with plans, 484; visitors' report, how if sessions disapprove of the, 483; to be submitted by commissioners to Secretary of State, 370.
Evidence before Select Committee, as to detention of pauper lunatics in workhouses, 324.
Evidence upon oath, or otherwise, to be taken by masters, 114; may be oral, or partly oral and part by affidavit, 119; interchange of, when proceedings are consolidated in the case of members of the same family, 129; office copies of orders of Lord Chancellor to be admitted as, 134; as to state of mind of alleged lunatic for more than two years previous to inquiry not to be received unless otherwise ordered by judge or masters, 23, 167; persons summoned by masters to give, 174; orders, etc., of commissioners in lunacy, or copies when sealed, to be received in, 187; how to be taken by masters in lunacy, 240; penalty on witnesses refusing to give, 242; in actions, 246; of transmission or sending copies, etc., 248; of pauper being a lunatic, what shall be, 393; upon hearing of appeal against order adjudicating settlement of pauper lunatic, 436.
Examination of alleged lunatic by Lord Chancellor, 113; by masters, 114; on trial in common law court, 22, 168; to take place either in open court or in private, as judge may direct, 21, 168; of lunatic by masters in lunacy, 239; by order of Lord Chancellor or Secretary of State, in certain cases, 250; of lunatics in asylum by visitors, 382; by justices previous to making order for reception of lunatics, 390; by officiating clergyman, 391; by justices as to settlement, 420; of pauper lunatic as to settlement, or on appeals, 440; of a private patient by medical man previous to granting certificate for admission to asylum, 68–74, 266, 267, 268; case of defective examination, 69, 70; proceedings against medical men for negligence, 71–73; of pauper lunatics, 279, 390; of wandering lunatics, or lunatics not under proper care and control, or cruelly treated or neglected, 394; payment of expenses in such cases, 397; by medical man previous to granting certificate, 400; pauper lunatic on being sent to asylum, cost of, to be charged to common fund, 537.
Examination of licence by visiting commissioners in lunacy, 218.
Examination of medical attendant previous to order for discharge of patient detained without sufficient cause, 228.
Examination of pauper lunatics by order of justices, as to necessity of order for payment of expenses, being made within six months after examination, 397; of pauper lunatics in the metropolis, by police magistrates, or officiating clergyman, prior to ordering removal to asylum, suggested alteration in the mode of, 555, 556.
Examination of persons, apparently insane, who endeavour to gain admittance to the King, 581.
Examination of witnesses, 242; notwithstanding no previous summons, 507.

Examination of persons in custody under repealed Act, or apprehended under circumstances denoting derangement of mind and a purpose of committing an indictable offence, 583; order on settlement parish for payment of costs, 584; of persons in custody under repealed Act, and proved not to be insane, 611. See also Inquiry.
Exchange of land, Lord Chancellor may order, 145; of lands for purposes of pauper lunatic asylum, 361, 365.
Exclusion from asylums of pauper lunatics when infectious or contagious disease prevails, 312, 313.
Exclusion from asylums of patients afflicted with contagious or infectious diseases, 302, 377.
Excursion of patients, 76.
Execution of agreements to unite for the purpose of providing asylum, 347; of mortgages, 372; of order of justices for removal of pauper lunatics to or from asylum, 403.
Execution of warrant of Secretary of State for retaking of criminal lunatic who has broken conditions of his discharge from asylum, 619.
Exemption of small properties from payment of per centage and fees, 110.
Exemption of keepers or attendants in public lunatic asylums from serving on juries, 380.
Exercise of patients, observations of commissioners on, 75.
Exercising grounds attached to licenced house, 198.
Expenses, allowance to masters in lunacy for, 107; allowance to visitors in lunacy for, 107, 108; allowance to registrar in lunacy for, 108; allowance to secretary to visitors in lunacy, 108; of examination of witnesses, how to be paid, 121; of improvements, to be charged on estate, 141; of commissioners, how provided for, 202, 625, 630; by whom to be paid, 248, 630; of persons appointed by commissioners to make special inquiries and reports, 281; of visiting justices, monies applicable in payment of, 204; of witnesses summoned by commissioners or visitors, payment of, 242; of special visitors appointed by Lord Chancellor or Secretary of State, 250, 282; of visitor visiting single patient at request of commissioners, 274.
Expenses of asylum, sum to be contributed by borough annexed to county towards, 343, 344; to be specified in agreement, 347; proportion of, 470; calculation of, 472; alteration of proportion of, 349, 471; application of money paid under agreement in respect of expenses already incurred, 349; of repairs, additions, alterations or improvements to pauper lunatic asylums how to be borne, 363; recovery of, 363; estimates as to, to be submitted to Secretary of State, 370, 483; how money is to be raised to defray, 371; by mortgage of rates, 372; of providing burial grounds, 486.
Expenses of examination and of bringing lunatic before justices, 397, 420; in what cases an order for payment by guardians can be made, 397, 398; payment of, by relieving officer, 397; of conveying lunatic to asylum, 420; of burial, removal, or discharge of pauper lunatics in asylums, 441; of maintenance of insane paupers may be levied off their estates, 525; of sending pauper and other lunatics to asylums, to what cases provisions of Act shall apply, 440;

Expenses—*continued.*
of examination, and removal to and from and maintenance in asylum, to be borne by common fund, 537; of examination and conveyance to asylum of insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, order for payment, 584; of removing insane persons from India to the United Kingdom, 577, 598.
Expiration of contracts for reception of pauper lunatics, 475; renewal of such contracts, 475; of licence, lunatics detained after, a misdemeanor, 44, 479.
Expiration of term of imprisonment of criminal lunatic before evidence of his sanity is given, thenceforth he is to be treated as a pauper lunatic, 620; applicability of the provisions in the 30 & 31 Vict. c. 12, s. 6, to lunatics whose term of imprisonment expired before the passing of that Act, 622, 623.
Extension of powers of visitors to order removal of pauper lunatics from one asylum to another, 474; of powers as to boarders in licenced houses, 491; of time for payment of debts, 535.
Extent of Acts, 15, 101, 254, 451, 586, 595, 616.
Extent of new burial grounds, limitation as to, 486.
Extracts from mortgages to be kept by clerk of the peace, 372.
Extra parochial places, 448.
Facts observed by medical man, upon which opinion of insanity is founded, to be stated in medical certificate, 271, 402; those stated by others to be distinguished, 271, 402.
False certificate, making, a misdemeanor, 273, 443.
False entry in book of admissions, a misdemeanor, 210; in register of discharges and deaths, a misdemeanor, 213; in medical visitation book, a misdemeanor, 215, 216; in medical visitation book, indictment for, 74, 220; in medical journal, a misdemeanor, 273.
False notice, plan or statement, person giving, guilty of a misdemeanor, 119.
Family of lunatic, allowance for maintenance of, 96; proceedings relating to members of one family may be consolidated, 129; of temporary lunatic, maintenance of, provision for, 143; of lunatic, maintenance of, application of produce of newly opened mines, 149; of lunatic not so found by inquisition, application of his property for maintenance of, 171; maintenance of, of person acquitted on the ground of insanity, Lord Chancellor may order application of property for, 173, 575.
Farnall, Mr., evidence of, on detention of pauper lunatics in workhouses, 324.
Father of private patient, may order discharge or removal from hospital or licenced house, 225; from asylum, 409.
Fees payable in relation to proceedings in lunacy abolished, and new fees substituted, 110; fixing of, by Lord Chancellor, 19; collection of, in High Court of Justice or Court of Appeal, 180; Lord Chancellor may alter, 19; to be collected by means of stamps, 19; provisions respecting, to apply to proceeding under former Act and other cases, 111; power of Lord Chancellor to exempt small properties, 19, 110; where property exempted from, no inquiry to be made of next of kin, 126; under repealed Acts, payment of, 183;

Fees—*continued.*
for licences, 50, 54, 201, 206; to clerk to visitors for searching returns as to lunatics, 203, 230; application of fees, 230; to secretary of commissioners, for searches, 231; application of fees, 231; to medical officer for quarterly visitation of paupers not in asylum, 305, 387, 388, 543, 548; by whom to be paid, 388; in what accounts to be entered, 388; for medical examination, justices empowered to order payment of, 397; on burial of pauper lunatics dying in asylum, 319, 476; incumbent not entitled to, on burial taking place in burial ground provided for asylum, 477; to registrar of deaths, how to be charged, 415; to medical officer for quarterly visitation of pauper lunatics not in asylums, payment by guardians, limitation of time, 388; chargeability of such fees to common fund of union, 389; payable to medical man for examining pauper lunatics under order of justices, necessity of order for payment being made within six months from examination, 397.
Felony, forgery of signature or seal of registrar, 135; person charged with, acquitted on ground of insanity, to be kept in custody, 569, 579; persons rescuing or conniving at escape of criminal lunatic, guilty of, 608.
Female lunatics, when removed from workhouse to asylum, should be accompanied by a person of their own sex, 560.
Filing of report of masters in lunacy, 239.
Finality of decision of quarter sessions on appeal against conviction, 245; of Secretary of State, as to plans, estimates, and contracts, 483.
Fines on copyholds, imposition and demand of, 138; if not paid, lord may enter and receive rents and profits, 138; re-entry on payment of fine, 138; committee making payment may reimburse himself, 139; unlawful fines may be controverted, 139; no forfeiture for nonpayment, 139.
Fines on granting or renewal of lease, how to be paid and applied, 150; quality of money arising by, 151.
Fire, removal of patients from licensed house in case of, 205.
Fisherton House, erection of ward for criminal lunatics, 575.
Fitness of patient to be discharged, examination of medical attendant as to, 228.
Fixing of fees in High Court of Justice and Court of Appeal, 180.
Forfeitures, recovery of, 444; application of them, 444; reduction of, on appeal, 445. See also Penalties.
Forgery of seal or signature of registrar, felony, 135.
Form of commission in lunacy may be prescribed by Lord Chancellor, 19, 112; of affidavits, 120, 161; of allowance of accounts of committee, 123; of orders in lunacy, 133; of oaths, 190, 195, 196; of case book, commissioners may direct, 216; of conviction, 244; of licence, 46, 50, 54, 201, 254, 489, 509; of register of admissions, 256, 257; of register of discharges and deaths, 258; of notice of discharge or death, 35, 259; of summons, 259; of notice of admission and statement, 279, 291; of medical visitation book, 279, 292; of order for reception of a private patient, 286, 401; of medical certificate in the case of a private patient, 287, 401; of order for reception of a pauper patient into licenced house, 288,

Form—*continued.*
400; of medical certificate in the case of a pauper patient, 287, 400; of agreement for uniting to provide asylum, 347, 451; of mortgages, 372, 453; of half-yearly list of lunatics in asylums, 383, 454; of annual list of pauper lunatics, 306, 385, 455; of quarterly list of lunatics not in asylum visited by medical officer, 388, 389, 493, 510, 544, 551; by whom to be supplied, 389, 543, 544, 545; of certificate for reception of pauper lunatic into asylum, 391, 392; of order of justices, 391; of order and certificate, 400, 457, 461; of register of patients, 411; of medical journal, 412, 467; of notice and statement of death of patient in asylum, 413; of register of deaths, removals, and discharges, 415; of notice to commissioners as to discharge, removal, escape or recapture of lunatic, 416; of agreement for uniting, 451; of mortgage, 453; of half-yearly list of private patients in asylum, 384, 455; of order for reception of pauper patient, 457; of private patient, 459; of medical certificate, 461; of notice of admission to asylum, 412, 461; of notice of discharge, death or removal, 462; of registry of admissions, 464, 465; of discharges, etc., 466; of medical visitation book for single patient, 35, 279, 504; of certificate or statement to be transmitted to medical superintendent with every criminal lunatic, 609; of certificate of visiting justices as to insanity of prisoner under sentence of death, 616; of Royal warrant, 569, 570; of Secretary of State's warrant, 574.

Friend of lunatic—in licenced house, in what cases allowed to board in house, 269; to be produced to commissioners and visitors at their visits to house, 269; when not to be restrained from taking care of, 82, 396; prosecutions for ill-treatment of lunatics, 83–87; discharge from asylum of pauper lunatic on undertaking from, 317, 407; not restrained from taking care of insane person or dangerous idiot, apprehended under circumstances denoting a purpose of committing an indictable offence, 584, 585.

Friends, visits of, to patients, 36, 63, 76, 232, 315, 321. See also Relatives.

Friendly societies, recovery from, of cost of relief granted to pauper lunatics, who are members of, 333, 532, 533; payment by trustees or managers of, to guardians, of money due to pauper lunatic, 533; order of justices upon trustees or managers in case of their refusal to pay, 533.

Frivolous and vexatious grounds of appeal or statement in order adjudicating settlement of pauper lunatic, 438.

Funds for providing asylums, how to be raised, 299. See also Accounts.

Furnishing pauper lunatic asylum, committee of visitors to contract for, 357.

Gaol, confinement in, of criminal lunatics, 570.

Gaols not included in houses requiring to be licenced, 209; visitation of, by commissioners, 248, 576; by single commissioner, 497; inquiries to be made as to lunatics in, 249; visitation and inquiries by special visitors, 250, 576.

Gaskell, Mr., evidence of, on detention of pauper lunatics in workhouses, 324.

General issue, pleading, 246.
General orders, made by Lord Chancellor to be laid before Parliament, 158; Lord Chancellor may make, for regulating proceedings as to application of property of limited value of lunatic not so found by inquisition, 172; of Lord Chancellor as to duties of visitors of lunatics, 23, 175.
General orders, jurisdiction of judges with regard to, 26.
General or Quarter Sessions. See Quarter Sessions.
General register to be kept in criminal lunatic asylums, 604; certificate respecting criminal lunatics to be transcribed into, 604.
General rules for management of asylum to be submitted by committee of visitors to Secretary of State, 376; when approved to be printed and observed, 376; alteration of, 376.
Gilbert's union, parish of settlement being in, order of maintenance, 420; guardians of, included in Lunatic Asylums Act, 449.
Gilbert's unions, dissolution of, 420.
Gordon R., appointment of, as commissioner in lunacy, 184.
Government stock or annuities standing in lunatic's name, power of receiver to receive dividends, 262.
Government of India, transfer of, to Crown, 598.
Graduates of London University, indemnity of, for signing certificates of lunacy, 469.
Grant of custody—as to grants of custody not under the great seal, 121; may be extended to surviving or continuing committees, 123; Lord Chancellor may apply property, when very small, directly for lunatic's maintenance without grant, 142; Lord Chancellor to make provision for temporary maintenance of temporary lunatic and his family without grant, 143.
Grant, Parliamentary, in aid of cost of maintenance of pauper lunatics in county or borough asylums, registered hospitals, and licenced houses, 332, 563; application by guardians to Local Government Board for repayment out of, 563; by counties, 563, 564; by boroughs, 564; claims of counties and boroughs to be examined and signed by district auditors, 563-565.
Graveney, jurisdiction of commissioners in lunacy as to, 45, 191.
Great Seal, issue of general commission under, 112; if grants of custody be not under, orders of Lord Chancellor to be of equal force, 121; award of commissions under, for inquiring into mental condition of persons apparently insane who endeavour to gain admittance to the King, 581, 582.
Greenwich, jurisdiction of commissioners in lunacy as to, 45, 191.
Greenwich pensioners becoming insane, 333, 531.
Grounds attached to pauper lunatic asylums, enlargement, etc., of, 319, 357; committee may order additions, etc., to, 362.
Grounds of appeal, statement of, to be sent to respondents, 436; how if frivolous or vexatious, 438.
Guardian for lunacy, masters may appoint, 128; masters may revoke and make new appointment, 128; powers vested in lunatic as, to be exercised by committee, 151; on behalf of idiots, agreements under 1 Geo. i. c. 10, may be entered into by committee of estate, 147.
Guardian of idiot, appointment of, by the King, 11, 12; of lunatic

Guardian of lunatic—*continued.*
powers of, with regard to leases and sales of settled estates of lunatic, 164.
Guardian of lunatic, appointment of, by Lord Chancellor, 239; his powers, 239; continuance of office of, 239.
Guardian of an infant, powers of, with regard to leases and sales of settled estates of such infant, 164.
Guardians of the poor defined, 449; may order discharge of pauper patient from licenced house or hospital, 225, 322; copy of notice of special visit thereto of commissioners or visitors to be sent to, 229; notice of recovery of pauper lunatic to be given to, 276; committee of visitors may require undertaking from, to pay cost of maintenance of pauper patients in asylum, 369; visitation of pauper lunatics in asylums, etc., by, 300, 321, 386, 552; to furnish medical officer with forms for quarterly lists of lunatics visited, 389, 543, 545; justices may make order on for payment of fees to medical men for examining pauper lunatics, 397; order of justices on for cost of maintenance, notwithstanding lunatic has property applicable for his maintenance, etc., 417; reimbursement of guardians in such case, 418, 430, 431; order of justices upon for maintenance of pauper lunatic, 418, 419, 425, 426; orders of justices on guardians out of their jurisdiction, 426; to charge cost of irremovable pauper lunatics to common fund, 428; payment of money by, without order of justices, 429; to send copy of order adjudicating settlement of pauper lunatic and grounds to parish affected, 432; statement to be signed by, 432; appeal against order, 433; to have access to pauper lunatics in cases of inquiries or appeals, 440; when to pay expenses of burial, discharge or removal of pauper lunatics from asylum, 441; recovery of money from, when ordered to be paid by an order of justices, 442; may arrange for care of chronic lunatics in workhouse, 485, 524, 553; may appeal against order of commissioners for removal of lunatic from workhouse to asylum, 498, 551; statements as to lunatics in asylum to be sent to, half-yearly, 319, 499, 551; payment to, of pensions of Chelsea and Greenwich pensioners, 531; may obtain order on relations of lunatic chargeable to common fund, 333; limitation of time for payment of debts by, 535, 536; orders of maintenance to be obtained by, in respect of lunatics in asylums, 538; order on, for payment of charges for inquiring into insanity of criminal, for conveyance to asylum, and for maintenance, 590; power of justices to order guardians to seize and sell property of criminal lunatic to defray expenses of maintenance, etc., 590, 616; appeal by, against order of adjudication of settlement of criminal lunatic, 593; weekly sum to be paid by, in respect of maintenance of insane prisoner, order of justices for, 594; payments under orders of maintenance of criminal lunatics, to be charged to common fund, 574, 615; payment by, of cost of maintenance, etc., of pauper lunatics in asylums, limitation of time for, 331; visitation of pauper lunatics in asylum by, as to number of guardians who should make the visit, 301; consent of visiting justices, 386; limitation of time for payment by, of fees to medical officer, for visitation of pauper lunatics not in asylum, 388; order of justices

Guardians of the poor—*continued.*
on, for cost of maintenance, notwithstanding lunatic has property applicable for his maintenance, cannot be appealed against, 419; claim by, upon estate of lunatic not so found by inquisition, for past maintenance in workhouse, 431; service upon, of order of justices for payment of cost of burial, discharge, or removal of asylum patient, 442; payment of money by, under Lunacy Acts, orders for, 442; under Local Acts, signature by, of notice of appeal against order adjudicating settlement of pauper lunatic, 436; of Gilbert's unions, order upon, for maintenance of pauper whose settlement is in a parish in that union, 420; may send idiotic pauper to idiot asylum, or to workhouse of another union, 328, 523, 558; and may pay for cost of clothing whilst there, 523, 558; administration of pauper's effects granted to, 528; may reimburse themselves for past maintenance of pauper out of his property, 528; and for cost of burial, 528; payment by, for maintenance of criminal lunatic in licenced house, 589; order of justices upon, for maintenance of insane prisoner in criminal lunatic asylum, 594, 595; service of order need not be accompanied by grounds of order, or by particulars of settlement, 595; recovery by, of cost of relief granted to pauper lunatics who are members of benefit societies, 333.
Guardians of Gilbert's union, included in Act, 449.
Guardians under Local Act, included in Act, 449.
Habeas corpus, writ of, release of lunatic under, 267.
Hadfield, an insane prisoner, case of, 569.
Half-yearly lists of patients in asylums, 80, 319, 383, 384; form of, 455, 456.
Half-yearly statements as to lunatics in asylums to be sent to guardians, 319, 499, 551.
Half-yearly statements as to pauper lunatics in asylum to be sent to guardians, suggestion that clerk to visitors should furnish additional information in, to ensure greater accuracy in annual returns, 553, 554.
Hall, J. H., appointment of, as commissioner in lunacy, 184.
Harmless criminal lunatic, discharge or removal of, by direction of Secretary of State, 285.
Harmless lunatics, detention of, in workhouse against their will, 326, 327.
Health, bodily, of lunatics, visitors to make inquiries as to, 175.
Health of patient, change of residence for benefit of lunatics in licenced house, 76, 232; in the case of a single patient, 278; patient in registered hospital, 77, 232, 478.
Hearing of appeal against order adjudicating settlement of pauper lunatic, evidence upon, 436; no objection to be taken for defect in form, 436; decision of court to be final, 438; appeals against orders of justices other than orders as to settlement, 445.
Hertford, county of, and Liberty of St. Alban, special provisions as to, 448.
High Court of Justice, as to transfer to, of jurisdiction of Lord Chancellor or Lords Justices with regard to lunatics, 16, 179, 180; collection of fees in, 180.
Hire of land or buildings for asylum, visitors empowered to hire from year to year, 487.

Home Office, when expenses of special visitors to be paid out of contingency fund of, 250, 282.
Home Secretary may order visitation of lunatics living with relations, 28; may direct inquiry as to any house where lunatic is alleged to be confined, 29, 250, 302; penalties for obstructing orders of, 29, 283; prosecutions by direction of, 214. See also Secretary of State.
Hospitals defined, 38, 208, 253; number of, 39; voluntary boarders in, 40; lunatics in, to be visited once a year, unless Lord Chancellor shall otherwise direct, 23, 175; to have printed regulations hung up in visitors' room, 64, 208, 209; copies of regulations to be sent to commissioners, 64, 209; to have a resident physician, surgeon, or apothecary, as superintendent, 64, 209; registration of, 39, 40, 43, 209; book of admissions, to be kept in, 210; entry therein on reception of patients into, 210; form of disorder when to be entered by medical attendant of, 210; notice to be sent to commissioners of admission of patient, 211; notice of escape from, and return to, 211, 212; statement of cause of death to be made by medical attendant of, 213; superintendent of, where to send certified copies of medical statement, 213, 214; abuse or ill-treatment of patients how punishable, 213, 214; medical visitation book to be kept in, 64, 215; medical report, when to be made therein, 215, 216; case book to be kept in, 64, 216; entries to be made therein by medical attendant of, 216; visitation of by commissioners, 57, 217; when to be made, 217, 218; superintendent to show commissioners every part of, 220; inquiries to be made by commissioners on visiting, 220; production of lists, books, orders, etc., by superintendent of, 221; books to be signed by commissioners and visitors, 221; visitors' book to be kept in, 222; result of inspections by commissioners and visitors to be entered therein, 222; patients' book to be kept in, 222; visiting commissioners and visitors to enter therein their observations as to patients, 222; transmission of entries in the several books by superintendent of, 222; report on, by visiting commissioners when not within their immediate jurisdiction, 59, 224; visitation of, by night, 224; discharge or removal of private patients from, 225; of pauper patients, 225; of dangerous patients, 226, 322; transfer of patients, 226, 321; discharge by commissioners of patients detained without sufficient cause, 227; examination before such discharge, of medical attendant of, 228; regulation of dietary for pauper patients in, 229; search and particulars to be given as to persons confined in, 231; admission of relatives with any medical or other person to patients in, 232; when superintendent may take or send patient to any specified place for his health, 232; annual reports on, by commissioners, 233; power and authority of superintendent of, 240, 241; visitation of, by special visitor, 250; how private patients are to be received into, 67, 68, 265–268; how in the case of paupers, 269, 320; combination with asylums, 80, 369; death of paupers in, 323; burial, 323; regulations for government of, to be framed by committee of management, 43, 281; visits by single commissioner, 497; rateability of, 360; income tax in respect of, 360; patients may be sent from for benefit of health, 321, 478;

Hospitals—*continued.*
removal to, of persons in custody under repealed Act, or apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 583; discharge from, on recovery, 322, 586. See also Bethlehem Hospital.
Hospitals for lunatics who are not paupers, 39.
Hospitals, pauper lunatics sent to, from boroughs, 332.
House, what included in the word, 209, 414; visitation of by special visitor, 250.
House of Correction, confinement in, of criminal lunatics, 570.
Houses for reception of lunatics, licences for, by commissioners in lunacy, 44, 191; by justices, 193; visitation of, 195; two or more may be included in the same licence, 264; to be inspected by commissioners before being licenced, 489. See also Licenced Houses.
Hume, J. R., appointment of, as commissioner in lunacy, 184.
Husband may order discharge or removal of lunatic wife from hospital or licenced house, 225; from asylum, 409; order on for maintenance of lunatic wife in asylum, 333, 529, 532; indictment of, for ill-treating wife, 86; maintenance of wife in asylum is relief to, 422; order upon wife for maintenance of, 530.
Idiocy, definition of, 4, 95.
Idiot asylum, provision for sending idiotic paupers to, 328, 523, 538; certified under 31 & 32 Vict. c. 122, 523.
Idiots, custody of persons and estates of, vested in the King, grant of by him to some person who shares the profits with the Crown, 10–12; wardship of, 11, 12; poor idiots, no special provision as to until the present century, 12; removal of from India to United Kingdom, 92; estates of, as to transfer to High Court of Justice of powers of Lord Chancellor and Lords Justices with regard to custody of, 179; who are paupers, provision for sending to idiot asylum, or to workhouse of any other union, 328, 523, 538.
Idiots distinguished from lunatics, 4; importance of distinction in early state of the law, 7; custody and estates of, vested in the King, 7, 8, 10, 95, 96; if grant of custody be not under great seal, order of Lord Chancellor to have same effect, 121; agreements under 1 Geo. i. c. 10, may be made by committee of estate, 147; included in the term lunatic, 251, 449; to be included in quarterly return, 388, 389; and in annual return, 455; institutions for, 43.
Idiots, dangerous—see Insane prisoners.
Ill-behaviour, appointment of other commissioners in cases of, 185.
Illness of visitor of lunatics, appointment of temporary substitute, 18, 107; of commissioners in lunacy, 185.
Ill-treatment of lunatic mother by son, prosecution, as to application of 16 & 17 Vict. c. 96, s. 9, to such a case, 87; of patients in licenced or other houses, 29, 36, 270, 321; in asylums, 314, 443; instances of prosecutions for, 315; punishment for, 75, 213; prosecution for, 214; of private lunatics by relatives or other persons having charge of them, 83–87, 393; of criminal lunatics, penalty on officers and servants, 608.
Imbecile paupers, to be visited and included in quarterly list, 548.
Imbeciles, institutions for, 43.

Imbecility arising from decay of faculties through old age or intemperance, would constitute lunacy, 236.
Immediate jurisdiction of commissioners, places included in, 44, 45, 191.
Imprisonment, when penalty and costs cannot be levied, 243.
Improvement, expenses of, to be charged on estate, 141; may be made by receiver, 262.
Improvement of pauper lunatic asylum, committee of visitors to contract for, 357; power to order, 362; expenses of, how to be borne, 363, 484; contract to be submitted to commissioners, 370.
Incapacity of a commissioner, appointment on, 185; of person to whom licence shall have been granted, 205; of person signing order for reception, who to direct discharge in case of, 225.
Income of lunatic, application of it, 239, 525; when statement as to, to be transmitted to Lord Chancellor, 278; how to be made available for his maintenance, 417, 430.
Income-tax in respect of hospitals, 360.
Incorporation of 16 & 17 Vict. c. 70 and 25 & 26 Vict. c. 86, 167; of 8 & 9 Vict. c. 100 and 16 & 17 Vict. c. 96, 284; of provisions of Lands Clauses Acts, 361, 486; of Lunacy Acts, 479, 482.
Increase of weekly payment for maintenance of pauper lunatics in asylum, 377.
Incumbent of parish not entitled to fees on burial in burial ground provided for asylum, 319, 477.
Indemnity for proceedings pending petition for traverse, 156; to Bank of England, 174, 262; of graduates of London University, 469.
India—see Insane prisoners (charged with offences in India), and Lunatics in India.
India, government of, transfer to Crown, 598.
Indictment, person acquitted on ground of insanity, application of his property, 173; for false entries in medical visitation book, 220; for ill-treating lunatic in licenced house or hospital, 271; in asylum, 443; plea to, 241; persons who cannot be tried on account of insanity, how to be dealt with, 580; of deaf and dumb person for larceny, prisoner found to be insane at the trial, 580.
In-door Relief List, entry in of lunatics, insane persons, and idiots, 520.
Infants, powers of guardians of, in respect of lease or sale of settled estate of, 164.
Infectious disease, lunatics may be excluded from asylums when it prevails, 312, 313.
Infectious patients, exclusion of from asylum, 377.
Infirmity, masters afflicted with permanent, may be removed, 104; officers in lunacy disabled by permanent, superannuation allowance to, 177.
Information, plea to, 241; of offence against Act, 243.
Infringing terms of licence, penalty, 491.
Injuries to patients, to be entered in medical visitation book, 216.
Inquest on death of patients, 318, 595; when it may be held on body of patient dying in asylum, 276; duty of coroner, on holding, 441 on body of lunatic dying in asylum, 441; upon bodies of persons generally, registration of death in such cases, 505, 506; certificate of cause of death, 506.

Inquiries as to bodily health of inmates, visitors to make, 175; for persons confined in licenced houses, 230, 231; by masters in lunacy under direction of Lord Chancellor as to lunacy of any person detained as a lunatic, 238, 239; to be made by commissioners in visiting asylums and gaols, 249, 576; into cases of alleged lunatics, 249, 250; by special visitor, 250; to be made by commissioners and visitors on visits to licenced houses and hospitals, 217, 218, 219, 220, 221; result to be entered in visitors' book, 218, 219; by commissioners in lunacy in reference to plans and contracts for asylums, 370; as to monies paid to superintendent, 500; to be made by commissioners in lunacy on visiting criminal lunatic asylums, 608.

Inquiry by visitors at request of commissioners into treatment, etc., of single patient in unlicenced house, 274; by commissioners into treatment of lunatics in workhouses, 280.

Inquiry may be ordered on report of commissioners, 118; relating to estate, may be conducted by masters, 124, 125; relating to the person, may be conducted by masters, 124, 125; masters may report specially pending, 131; new, Lord Chancellor, upon presentation of petition, may order, 25, 168; application of sec. 151 of 16 & 17 Vict. c. 70, to, 169; petition for hearing of, demand by alleged lunatic for jury, 169; by jury, notice for, previously filed, withdrawal of, 169; costs of, Lord Chancellor may order payment of, 25, 170; order for taxation and payment of costs after death of lunatic, 165.

Inquiry into insanity of criminal, 587, 592, 613; order for payment of charges, 590, 592; after expiration of his sentence, 589; into settlement of criminal lunatic committed from a borough, but confined in the county gaol under contract, and from thence sent to Broadmoor, as to the proper justices to make the inquiry, 589; into sanity of persons apparently insane, who may endeavour to gain admittance to the King, 582.

Inquisition, proceedings under, 19–26, 112–118; alleged lunatic, within jurisdiction, to have notice, 20, 113; when he may demand a jury, 20, 113; demand to be complied with, unless Lord Chancellor on personal examination directs otherwise, 20, 21, 113; cases where jury may be dispensed with, 114; masters to take evidence on oath or otherwise, 114; jury to be had if masters certify that it is expedient, 20, 114; when masters may issue precept to sheriff for jury, 21, 114; certificate of masters without a jury to be deemed an inquisition, 21, 114; jury to be had if alleged lunatic be out of jurisdiction, 20, 115; notice to be given to him, 115; Lord Chancellor may regulate number of jury, 115; inquisition to be found by twelve at the least, 115; to be confined to state of mind of alleged lunatic at the time of making inquiry, except under special order of Lord Chancellor, 12, 22, 115; commissioner acting with jury to have powers of judge of court of record, 21, 116; provisions with respect to inquisition, to be prospective only, 116; may be transmitted to and from Ireland or England, 117; proceedings under 8 & 9 Vict. c. 100, s. 95, to be discontinued, 118; report of commissioners in lunacy to Lord Chancellor if property of alleged lunatic, but not so found by inquisition, be not duly protected or

Inquisition—*continued.*
applied, to be taken as an ordinary petition for inquiry, 22, 27, 119; proceedings after, 22, 119–133; present provisions with respect to proceedings after, to what applicable, 136; costs of, property of lunatic may be sold, etc., for payment of, 140; investigation to be confined to state of mind of alleged lunatic at time of inquiry, 22, 167; evidence as to his state for more than two years previous, not to be received unless judge or masters otherwise direct, 22, 167; reference to, in other Acts, to apply to issue and verdict in common law court, 168; costs of, Lord Chancellor may order payment of, 25, 170; persons found lunatic by, powers of commissioners or visitors to order discharge, not to extend to, 229; order for reception and visitation of persons found lunatic by, 493; taken in India, 600; removal of lunatic to United Kingdom, 600; proceedings thereupon, 600, 601; lunatics not so found by, report of commissioners in lunacy to Lord Chancellor when property is unprotected, 22, 27, 118; Lord Chancellor empowered to make orders as to property of limited value, 171, 172; lunatics not so found by, orders of Chancery Division of High Court of Justice as to, 171; claim by guardians upon estate of, for past maintenance in workhouse, 431. See also Commission of Lunacy. Supersedeas. Traverse.
Insane pensioners, care of, 531.
Insane person included in the term lunatic, 251; to include lunatic or dangerous idiot, 595.
Insane persons wandering abroad and received into workhouse, duty of master, 393; who may endeavour to gain admittance to the King, may be kept in custody, 581, 582; may be examined by Privy Council or Secretary of State, 581; commission may be awarded for inquiring into sanity of such persons, 581, 582; upon such persons becoming sane they may be discharged from custody, 582.
Insane prisoners, provisions with regard to confinement and maintenance of, 570–573; insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 583; how formerly dealt with, 568; examination of, 568, 583; removal to county asylum, hospital, or licenced house, 568, 584; adjudication of settlement, 568, 584; expenses of examination, conveyance, and maintenance, order for, 584; how when settlement cannot be ascertained, 568, 584; may be taken care of by relations or friends, 584; appeal against order of adjudication, 585; discharge from county asylum, hospital, or licenced house on recovery, 586; charged with offences in India, when acquitted or not tried on the ground of insanity, 577, 597; may be removed to the United Kingdom, 577, 597; order of Government of India to be a sufficient warrant for removal, 597, 598; how to be dealt with on arrival, 598; expenses of removal how to be defrayed, 577, 598; to be a debt due from lunatic and secured by a judgment in England and Ireland, and by decree of registration in Scotland, 577, 598, 599; transfer of cost of maintenance of, from settlement parish to common fund, 574; obligation of keeper of licenced house to receive those committed on Royal warrant, 575; order of justices upon guardians for maintenance in criminal lunatic asylum, 594,

Insane prisoners—*continued.*
595; and for adjudication of settlement, need not be accompanied by grounds of order or by particulars of settlement, 595. See also Milbank Prison. Pentonville Prison. Queen's Prison. Navy. Criminal Lunatics.
Insanity, definition of, 95; principal forms of, 96; lucid intervals, 96; chronic forms of, 485; facts upon which opinion of is formed, to be stated in medical certificate, 271, 402; of person who signed order for reception of lunatic in hospital or licenced house, how lunatic shall be discharged or removed in such case, 225; in asylum, 409.
Insolvent, powers of assignee of, in respect of lease or sale of settled estate of, 164.
Inspection under 14 & 15 Vict. c. 99, s. 6, of book of admissions, 210; register of discharges and deaths, 212; certificates and orders for confinement, 214, 221; case book, 216; licence, 221; correspondence, etc., relating to patients, 221; visitors' book, 222; patients' book, 222.
Inspection of licenced houses and registered hospitals by commissioners, 218; of patients therein, 218; of orders and certificates for reception of patients, 218; by visitors, 219; of orders and certificates for reception of patients, 219; of patients therein, 219; result of, to be entered in visitors' book, 222; when houses and hospitals are not within jurisdiction, 224.
Inspection of houses by commissioners before being licenced, 489.
Inspection of lunatic asylum by not less than two visitors every two months at least, 382.
Inspection of private register, 237; of licence, 52, 56, 218; of accounts with regard to mortgages, 374; of book in which contracts as to pauper lunatic asylums are entered, 358; of original agreement for uniting, after it has been deposited with clerk of the peace, 350.
Institution, public, as used in the Registration Acts, to include lunatic asylum, 414.
Institutions for idiots and imbeciles, to be registered, 43.
Instrument, reference in, to commission of lunacy, to apply to issue and verdict in common law court, 168.
Instruments executed by justices or visitors need not be under seal, 478; made by commissioners in lunacy to be sealed with their seal, 187; proof of, 187.
Instruments of restraint, concealed from visitors and commissioners, 220.
Intemperance, imbecility arising from, would constitute lunacy, 236.
Interest in land purchased or acquired for purposes of asylum, in whom to vest, 362.
Interest on money raised on mortgage to defray costs and expenses of asylum, 372; on mortgages, payment of, 373.
Interment of pauper lunatics, 475; fees for, 476.
Interpretation of words, terms, and phrases, 99, 100, 101, 163, 166, 250, 263, 283, 414, 448, 479, 481, 536, 538, 595, 618.
Interpretation of word lunatic, 298.
Interruption of residence, removal of pauper lunatic to asylum, not an, 527.

Intervals between visits before discharge of patients, 227, 228.
Investment of surplus estate of lunatic, 239.
Irremovability of lunatic pauper, term of residence in asylum to be deducted in computing, 528.
Irremovable lunatic paupers, sent to asylum, order for maintenance of, 422; cost of maintenance of, to be borne by common fund of union, 426–429.
Ireland, some of provisions of Act extend to, 15; Act to extend to, when specifically mentioned, 101; removal of pauper to, instead of being sent to an asylum, 312; inquisition and supersedeas may be transmitted to and from, 117; repeal of sections 1, 2, and 3 of 15 & 16 Vict. c. 48, except so far as the same relate to, 98, 160, 261; repeal of 1 Wm. iv. c. 65, except so far as relates to, 159; Act not to apply to, 618.
Issue, trial of, in common law court, 21, 167; costs of, Lord Chancellor may order, 25, 170.
Joint certificates for reception of lunatic into asylum, 393.
Joint licence, residence on premises required for one of the persons to whom it is granted, 265; further provisions as to, 490.
Joint stock company contracting with visitors, how when any visitor is a shareholder thereof, 370.
Judges, jurisdiction of, 15; with regard to the making of general orders, 19–26; of High Court of Justice or Court of Appeal, transfer to, of jurisdiction of Lords Justices of Court of Appeal in Chancery with regard to lunatics, 180; of Supreme Court of Judicature, power of, with reference to the fixing of fees, etc., to be taken in the courts, and those to be paid on estates of lunatics, 16.
Judge of common law court, reception by, of evidence as to acts of alleged lunatic for more than two years preceding inquiry, 22, 167; direction of, as to examination of alleged lunatic, 168.
Judge of court of record, commissioner acting with jury on inquisition, to have all the powers of, 21, 167.
Judicial Committee of Privy Council, transfer of powers of, in regard to appeals from orders of Lord Chancellor or other persons, to Court of Appeal, 179.
Jurisdiction of Lords Justices or other judges, 15, 99, 100; of commissioners in lunacy, what places included in, 44, 45, 191; of justices to grant licences, 193; of justices with respect to asylum erected beyond limits of county or borough, 359; of county sessions, asylum being in borough, 421; of borough not having a quarter session, 421; of justices to make orders upon guardians or overseers, 426; of Lords Justices, provisions of the Supreme Court of Judicature Acts as to, 15, 16, 179; of Lord Chancellor and Lords Justices in relation to lunatics, as to transfer of to High Court of Justice, 16, 180; or to Court of Appeal, 180; of Sovereign in Council with regard to appeals from orders in lunacy of Lord Chancellor or other persons, transferred to Court of Appeal, 16, 179; of Court of Chancery of County Palatine of Lancaster, with regard to lunatics, abolition of, 101; of Chancery Division of High Court of Justice in regard to the making of orders for custody and

Jurisdiction—*continued.*
maintenanee of persons of unsound mind, not so found by inquisition, 171.
Jurisdictions, unions extending into several distiuct, provision for such cases, 557.
Jury, when alleged luuatic may demand inquiry before, 20, 113; demand to be complied with, unless Lord Chancellor on personal examination directs otherwise, 20, 21, 113; cases where jury may be dispensed with, 114; jury to be had if masters certify that it is expedient, 20, 114; when masters may issue precept to sheriff, 21, 114; certificate of masters without a jury to be deemed an inquisition, 21, 114; jury to be had if alleged luuatic be out of jurisdiction, 20, 115; Lord Chancellor may regulate numbcr of, 115; inquisition to be found by twelve at the least, 115; commissioner acting with, to have powers of a judge of court of record, 21, 116; Lord Chancellor may direct issue as to alleged insanity to be tried in common law court, 21, 167; provisions of former Act relating to jury, to be applicable, 167; verdict of, to have same force as an inquisition under a commission of lunacy, 21, 168; examination of alleged lunatic before consultation as to verdict, 168; demand for, by alleged lunatic, when and how to bc made, 169; demand for, to have same effect as if made by notice filed with registrar, 169; notiee of dcmaud for, previously filed, withdrawal of, 169; to declarc whether person charged with treasou, murder or felony, was acquitted on ground of insanity, 569, 579; to be impannelled to try sanity of person charged with offence and brought before court for discharge for want of prosecution, 569, 580; to declare whether person charged with misdemeanor was acquitted on the ground of insanity, 569, 591; exemption of keeper or attendant in public lunatie asylum, from serving on, 380.
Justices, defined, 252, 449; action against, for improper confinement, 87; jurisdietion of, to licensc houses for reception of lunatics, 193; to be appointed visitors, 193; transfer of licences by, 205, 206; when they may order discharge of pauper patient from licenced house or hospital, 226, 322; summons of offenders by, 243; hearing of complaint by, 243; may issue warrant for apprehending party not appearing, 243; adjudieation of complaints by, 243; may reduce penalty, 243; may issue warrant of distress for penalty and costs, 243; may detaiu offenders until returu to warrant, 243; or may take security for appearance, 243; in default of distress may commit to House of Correction, 244; form of conviction before, 244; appeal against order of, 245; licence granted by, may include two or more houses, 264; order of, for reception of pauper lunatics into licenced house, 269; may inquire into settlement of criminal becoming insane, and may make orders for payment of expenses and maintenance after expiration of prisoner's sentence, 589; annual election of committee of visitors by, 351; number to be elected ou committee, 352; supply of vacancies by, 355; copy of half-yearly list of pauper lunaties in asylum to be laid before, 383; of annual list of pauper lunatics, 385; duty of, with regard to making order for reception of pauper lunatics into asylum, 308, 390; wandering lunatics, 81, 393; lunatics not under proper

Justices—*continued.*
care and control, or cruelly treated or neglected, 394; how to proceed with regard to property of lunatics, 416; may make order on guardians for costs of maintenance, etc., notwithstanding, 417; empowered to order payment of fees, 397; order of, upon guardians for maintenance of pauper lunatics, 417; may inquire into and adjudge settlement of lunatic, 419; their jurisdiction to make orders upon guardians or overseers, 426; orders other than orders as to settlement of pauper lunatics, appeals against, 445; orders of, need not be under seal, 478; their approval of resident physician, surgeon, or apothecary, 490; may order medical examination of persons in custody under repealed Act, or apprehended under circumstances denoting derangement of mind and a purpose of committing an indictable offence, 568, 583; if found to be insane or dangerous idiots, may order their removal to county asylum, hospital, or licenced house, 584; may inquire into settlement and make orders for payment of expenses and maintenance, 584; how when settlement cannot be ascertained, 584; may inquire into settlement of criminal becoming insane and make orders for payment of expenses and maintenance, 572, 590, 592; how when settlement cannot be ascertained, 572, 590; may order property to be applied towards expenses and maintenance, 575, 590, 616; may direct overseers or guardians to pay weekly sum for maintenance of insane prisoner, 594; to inquire with medical aid into case of criminal prisoner becoming insane, 613; certificate of, 613; order of, for repayment by husband of cost of maintenance of wife in asylum, 532; order may be made by justices having jurisdiction in the union or parish, the guardians of which shall make the application, 532; order of, upon trustees or managers of benefit or friendly societies for payment to guardians of money due to lunatic paupers, 533. See also Quarter Sessions. Special Sessions. Visiting Justices of Prisons.
Justices of county, provision of county asylums by, 337; by order of Secretary of State, 355; appointment of committee of justices by, 338; enlargement of powers of committee by, 345, 346; appointment of new committee by, 345; power to enlarge or provide additional asylum, 356; may act notwithstanding asylum erected beyond limits of county or borough, 359; liability to provide asylum preserved, notwithstanding contract entered into for reception of pauper lunatics into asylum of other county or borough, 368; assessment by county justices to defray cost and expenses of asylum, 371; may mortgage rates, 372; may apply to Public Works Loan Commissioners to advance money, 373; how to provide for payment of interest, 373; to inspect accounts with regard to mortgages, 374; empowered to raise money to pay off previous loans, 375; when empowered to increase rate of weekly payment for maintenance of pauper lunatics in asylum, 377; on dissolution of union to elect committee to provide an asylum, 472; of a city or town having no recorder, powers of, with regard to contracting for reception of their lunatics into other asylums, 516; whether the proper justices to inquire into settlement, and to make orders for maintenance of criminal lunatic committed

Justices of county—*continued.*
from a borough, but confined in county gaol, under contract, and from thence sent to Broadmoor, 588.
Justices of boroughs may contract with committee of visitors for reception of pauper lunatics into county asylum, 341; visitation of lunatics in such case, 341; when to appoint justices to be members of committee of visitors of county asylums, 344; appointment of new committee by, 345; power to enlarge or provide additional asylum, 356; powers of, when asylum is erected beyond limits of borough, 359; liability to provide asylum preserved notwithstanding contract entered into for reception of pauper lunatics into asylum of county, 368; assessment to defray costs and expenses of asylums, 371; may mortgage rates, 372; when empowered to increase rate of weekly payment for maintenance of pauper lunatics in asylums, 377.
Justices in quarter sessions, when to make a rate for purposes of Act, 447.
Justices of a single borough or county may unite with subscribers to hospital, 470.
Justification for taking and detaining patients, 241.
Keeper of licenced house, obligation of to receive insane prisoners committed under Royal warrant, 575.
Keepers or attendants in public lunatic asylums, exemption of, from serving on juries, 380.
Kennington, jurisdiction of commissioners in lunacy as to, 45, 191.
Kew Green, jurisdiction of commissioners in lunacy as to, 45, 191.
Kin, discharge or removal of lunatic from asylum on order of nearest of, 225, 409. See also Next of Kin.
King, the, custody by, of born idiot and his estate, 7, 8, 13, 95; revenue arising therefrom, 7; of lunatics, 10; of their estates, 10, 96; to give orders for custody of person charged with treason, murder, felony, or misdemeanor, and acquitted on the ground of insanity, 569, 580, 592; when persons arraigned upon indictment are found to be insane, or are so found upon trial, 580; form of warrant, 569, 570; commitment under, to county asylum, obligatory on visitors, 575; appointment by, of criminal lunatic asylums, 603; authority of, to make provision for custody of criminal lunatics not to be affected, 604.
King, appointment by, of guardian of idiot, 11, 12; begging wardship of, from, 11, 12; in Council, powers of, with regard to appeals from orders of Lord Chancellor or of other persons, transfer of, to Court of Appeal, 179; persons apparently insane, who may endeavour to gain admittance to the King, may be kept in custody, 581, 582; and may be examined by Privy Council or by Secretary of State, 581; release of such persons on becoming sane, 582; commission may be awarded for inquiry into sanity of such persons, 521, 582.
Lambeth (St. Mary), jurisdiction of commissioners in lunacy as to 45, 191.
Lancaster, Court of Chancery of County Palatine of, abolition of jurisdiction of, with regard to lunatics, 101.
Land, interpretation of, 100, 263; of natural fools and of lunatics,

Land—*continued.*
custody of, by the King, 7, 13, 95, 96; committee of estate may convey, in performance of contracts, 144; of lunatic may be sold, partitioned, or exchanged for benefit of lunatic, 145; may be sold for building purposes, 146; in-tail, lease of, committee of estate may grant, binding on issue or remaindermen, 163; of lunatic not so found by inquisition, power to sell or mortgage and apply proceeds, 171; of lunatic, receiver may make repairs, leases, etc., 262; attached to houses intended to be licenced, quantity of, to bo described in notice, 198; purchase of, for site for pauper lunatic asylum, 357; on a reserved rentcharge, 359, 487; releaso from contract for purchase, 367; lease of, for a term of years, 359; to whom to be conveyed, 366; assessment of, to local rates, 360; appointment of new trustees to hold, 361; in whom estate is to vest, 362; division of, on dissolution of union, 364; sale or exchange of, 365; attached to pauper lunatic asylums, enlargement, etc., of, 357; hire of, by the year, 359, 487; committee may order additions or improvements to, 362; conveyance of for burial ground for pauper lunatics, 477; purchase of, 485; contracts for purchase of, to be submitted to commissioners, 370.
Lands Clauses Consolidation Act, 1845, certain provisions of, incorporated, 361, 486.
Lands for lunatic asylums, etc., purchased or exchanged, conveyance of, to clerk of the peace for county, 361, 517; vesting of such lands in him, 517.
Larceny, indictment of deaf and dumb person for, found at the trial to be insane, 580.
Law officers of the Crown, opinion of, on questions arising out of the construction of sec. 90 of the 8 & 9 Vict. c. 100, with regard to the charge of single lunatics, 234.
Layton, jurisdiction of commissioners in lunacy as to, 45, 191.
Laytonstone, jurisdiction of commissioners in lunacy as to, 45, 191.
Lease, surrender and renewal of, by committee of lunatic's estate, 139; charges of renewal of, to be charged on estate, 139; new lease to be made to same uses as the old, 140; undesirable, may be disposed of, 147; building, committee of estate may make, 147; of mines, committee of estate may make, 148; leasing powers of lunatic having limited estate may be executed by committee, 149; application of fines, premiums, etc., 150; surrender of, and grant of new, 150; lease made under Act to bo valid, 152; committee of estate may grant, binding on issue or remaindermen, 163; remedies against lessee on death of lunatic, may be executed by receiver, 263; committee of visitors may take lands or buildings on, for purpose of asylum, 359, 487.
Leases of settled estates, powers of guardians of infants, committees of lunatics, and assignees of bankrupts or insolvents in regard to, 164.
Lee, jurisdiction of commissioners in lunacy as to, 45, 191.
Letters written by private patients, 232; in asylums, 502, 504, 565, 566.
Lewisham, jurisdiction of commissioners in lunacy as to, 45, 191.
Liabilities of person signing order for admission of private patient into licenced house or hospital, 265.

Liability of relations to maintain lunatics, 431; of husband to maintain his lunatic wife in asylum, 529.
Liberty, when to be annexed to county for purposes of Act, 447.
Liberty of St. Alban, special provision as to, 448.
Licence of chaplain of lunatic asylum, revocation of, 378.
Licences, when granted previous to repealing Act to remain in force, 183; to be sealed with seal of commissioners, 187; proof of, 187; jurisdiction of commissioners to grant, 44, 45, 191; meetings of commissioners for granting, 45, 191; practice of commissioners in dealing with applications, 47–50; jurisdiction of justices to grant, 52, 53, 191; disqualified persons acting in granting, 45, 52; how punishable, 127, 196; notices of intended application for, 47, 53, 197, 198, 199; copy to be sent to commissioners, 54, 200; renewal of, 47, 53, 200; form, 46, 50, 54, 201, 254, 489, 509; to be stamped, 50, 54, 201; to be under seal, 201, 625; for what period to be granted, 51, 54, 201; consent of recorder to grant of, in borough, 52, 201; charges to be made for, 50, 54, 201; application of monies received for, 50, 202, 203, 625; how if persons to whom they have been granted become incapacitated, 51, 205; how if licenced house be pulled down or destroyed, etc., 51, 54, 205, 206; stamp and fee on new licence, 206; revocation of, when granted by commissioners, 51, 55, 207, 208; revocation of, when granted by justices, 55, 207; prohibition of renewal, 51, 55, 207; prohibition of reception of two or more lunatics without a licence, 44, 209; prohibition of detention after expiration or revocation, 44, 479; examination of, by visiting commissioners, 52, 55, 218; production of, to visiting commissioners and visitors, 52, 56, 221; inspection of, under 14 & 15 Vict. c. 99, s. 6, 221; copies of entries in visitors', patients', and medical visitation books to be laid before justices on their considering renewal of licence, 54, 223; not required where single patients are received for profit, 29; conditions of, 45; when it may include two or more houses, 47, 264; the person to whom it is granted must reside on the premises, 46, 265; further provision as to, 46, 53, 489; infringing terms of, penalty, 56, 491; house to be inspected by commissioners before it is granted, 489; their report thereon to clerk of peace, 489; notice of additions to, or of alterations, and plan, to be given to clerk of peace, 489; to be sent to commissioners, 489; transfer of, practice of Commissioners in Lunacy with regard to, 51.
Licenced house defined, 253; visitors of lunatics not to be interested in, 17, 106; lunatics in, to be visited once a year, unless Lord Chancellor shall otherwise direct, 23, 175; commissioners, when to receive applications for, 191; justices, when to receive applications for, 193; visitation by visitors to be made without notice, 195; persons interested in, disqualified from executing Act, 196, 625; notice of applying for, 197, 198; delivery of plan of, 198; statement to be furnished with respect to, 198; removal of superintendent of, 199; what plan of, may be deemed sufficient, 199; alteration of, 199; without consent, 199; return of patients in, 200; transfer of, on death or incapacity of proprietor, 205, 206; how if house be pulled down or rendered unfit, 205; notice of revocation or prohibition of licence to be left at, 208; order for admission of

Licenced house—*continued.*
private patients—its requisites, 67, 68; book of admissions to be kept in, 210; entry therein on reception of patient into, 210; form of disorder when to be entered by medical attendant of, 210; transmission of notice and statement on reception of patient into, 211; escape from, proceedings on, 76, 211, 212, 321; abuse or ill-treatment of patient in, how punishable, 213, 214; unlawful confinement in, 214; having one hundred or more patients, to have a resident medical superintendent, 214; above fifty to be daily visited by medical attendant, 214; less than fifty twice a week, 214; visitors and commissioners may direct visits to be made at other times, 215; how if the house be licenced for less than eleven patients, 215; medical visitation book to be kept in, 215; medical report to be entered, 215; penalty for omitting to enter report, 216; false report, a misdemeanor, 216; case book to be kept in, 216; entries by medical attendant, 216; penalty for omitting to keep book, 217; visitation of, by visiting commissioners, 57, 58, 217; when, 217; to be made without previous notice, 217; inspection of buildings and inquiries as to patients, 217, 218; visitation of, by visitors, 219; when to be made, 219; inspection of buildings and inquiries as to patients, 219; proprietors to show every part to commissioners and visitors, 220; what inquiries to be made on visitation by commissioners and visitors, 220; production of lists, books, orders, etc., 221; copy of plan of premises to be hung up in, 222; book called the Visitors' Book, bound up with Queen's printer's copy of Act, to be kept in, 222; visitors' book to be kept in, 222; result of inspections by visiting commissioners and visitors to be entered therein, 222; patients' book to be kept in, 222; visiting commissioners and visitors to enter therein their observations as to patients, 222; transmission of entries made in books of, 222; proceedings in case of doubtful patient confined in, 223; reports of visiting commissioners on, when house is not within their immediate jurisdiction, 224; visitation of, by night, 58, 60, 61, 224; discharge from, of private patients, 225; discharge from, of pauper patients, 225; discharge from, of dangerous patients, 226; transfer of patients, 226; licenced by commissioners, discharge of patients from, 227; licenced by justices, discharge, of patients from, 227, 228; examination before such discharge, of medical attendant of, 228; regulation of dietary for pauper patients in, 229; search and particulars to be given as to persons confined in, 230, 231; admission of relative with any medical or other person into, 232; patients in, when to be taken to places for benefit of health, 232; annual report on state and condition of, by commissioners, 233; power and authority of proprietor of, 240, 241; how private patients are to be received into, 265–263; order of admission, its requisites, 67, 68; what medical men shall not sign certificate, 494; how in the case of pauper patients, 269, 319; death of paupers in, 323; commissioners to make regulations for government of, 64, 282; powers of commissioners and visitors with regard to, after expiration or revocation of licence, 457; detention of patients in, afterwards, a misdemeanor, 479; visitation of, by commissioners or visitors, singly, 497; as to taking boarders,

Licenced house—*continued.*
74, 265, 491; removal of persons in custody under repealed Act, or apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 584; discharge from, on recovery, 586; when pauper lunatics should be sent to, 304, 305; pauper lunatics sent to, from boroughs, 332, 533; part of cost of maintenance, etc., to be paid by borough and part by guardians, 533; pauper lunatics in, grant from Parliament in aid of cost of maintenance, 332, 563; claim by guardians for repayment out of grant, 562, 563; by counties, 563, 564; by boroughs, 564; removal to, by order of Secretary of State of insane prisoners, form of order, 574; as to obligation of keeper of, to receive insane prisoners committed under Royal warrant, 575; maintenance of criminal lunatic in, as to payment by guardians without order of justice, 589.
Licencing houses for reception of pauper lunatics, 319.
Lifetime of lunatic, section 104 of the 16 & 17 Vict. c. 97, as to reimbursement out of lunatic's estate of cost of his maintenance, can only be acted upon during, 431.
Limitation of time for payment by guardians, of fees to medical officer for visitation of pauper lunatics not in asylum, 388; for payment of cost of maintenance, etc., of lunatic in asylum, 331; for trial of traverse, 155; for repayment of money borrowed on mortgage of rates, 374; for payment for past maintenance, etc., 424; for notice of appeal against order of adjudication, 435; for payment of debts, 535; for making order for payment of costs after death of lunatic, 165.
Limitation as to extent of burial grounds, 486.
Limitation of actions, 245.
Limitation of amount of superannuation allowances to officers and servants in asylums, 381.
Limitation of contract of committee of visitors for reception of pauper lunatics of other counties or boroughs, 367.
Limitation of inquiry under commission of lunacy, 12, 22, 167.
List of patients to be produced to visiting commissioners and visitors, 221.
List of pauper lunatics in asylum to be made out half-yearly, 80, 319, 383, 384; form of it, 454; chargeable to poor rates, to be made out annually, 306, 384, 454, 545; transmission of, 385, 543; form of it, 455; of pauper lunatics not in asylum visited quarterly by medical officer, 305, 324, 386, 389, 493, 543–549, 551; form of it, 510; by whom forms are to be supplied, 306, 389, 543, 544; instructions as to time and mode of preparing such lists, 546; imbeciles to be included in list, 548; when *nil* returns are to be made, 548; steps taken by commissioners in lunacy to enforce due return of lists, 547, 548.
List of visitors of houses licenced by justices, publication of, 194.
Loans by Public Works Loan Commissioners for purposes of Act, 373; power to raise money to pay off, 375.
Local Acts, guardians under, included in Act, 449.
Local Government Board, establishment of, in lieu of Poor Law Board, 385; application to, by guardians, for payment out of Parliamentary

Local Government Board—*continued.*
grant, of contribution towards cost of maintenance of pauper lunatics in asylums and licenced houses, 563; by counties, 563, 564; by boroughs, 564.
Local rates, assessment of land and buildings to, 360.
Lodging persons who are not lunatics in licenced houses prohibited, 265; in what cases lawful, 269; who prohibited from, 272.
Lodging single patient in unlicenced house, 235.
Lodging—see also Maintenance.
London, City of, jurisdiction of commissioners in lunacy as to, 44, 191.
London Gazette, revocation and prohibition of renewal of licence to be published in, 207, 208.
Lord Chancellor, interpretation of, 99.
Lord Chancellor intrusted as aforesaid, interpretation of, 99, 166.
Lord Chancellor of Ireland, interpretation of, 100.
Lord Chancellor, custody by, of idiots and lunatics, 13; appointment by, of committee for care of lunatic and management of his estate, 13; power to act either alone or jointly with Lords Justices in the care and custody of persons and estates of persons found idiot, lunatic, or of unsound mind, 15; to fill up vacancies in the office of masters in lunacy, 16, 102; duties of masters regulated by, 103; oath of masters to be taken before, 102; to have an officer called the Registrar in Lunacy, 16, 103; to regulate his duties, 103; may order retiring annuities to infirm masters, 104; may remove and grant annuities to future masters, 104; to fix salary of registrar, 104; to fix salaries of officers, clerks, and messengers, 105; chief clerk to masters to be appointed with approbation of, 17, 105; to fill up vacancies in the office of visitors of lunatics, 17, 105; report to, liberty of visitors to make, 18, 106; to fix salaries of legal visitors appointed after commencement of Act, 17, 106; approbation of, to appointment of visitor's temporary substitute, 107; to fill up vacancy in office of secretary to visitors, 107; to fix his salary, 107; may allow travelling and other expenses to masters, visitors, registrar, and secretary to visitors, 107; salaries and allowances payable under order of, 107; may remit or reduce per centage charged on estate of lunatic, 19, 109; recovery under regulations of, 19, 109; may alter rates of per centage and fees, 19; may exempt small properties from payment of per centage and fees, 110; may prescribe form of commission in the nature of a writ de lunatico inquirendo, 19, 112; may prescribe time within which alleged lunatic may demand a jury, 113; if alleged lunatic demands a jury, Lord Chancellor to examine and order accordingly, 20, 113; certificate of masters to, when jury is expedient, 20, 114; to regulate number of jurors, 21, 115; power to issue special commissions reserved, 20, 116; inquiry into state of mind of alleged lunatic not to be carried back except by order of, 115; Lord Chancellors of England and of Ireland may order transmission of inquisition and supersedeas from and to Ireland and England, 117; no longer to direct examination before master under 8 & 9 Vict. c. 100, s. 95, 118; report to, of commissioners in lunacy if property of alleged lunatic not so found by inquisition is not protected or properly dealt with, 22, 27, 37, 118; order of, to have same force

Lord Chancellor—*continued.*
as grant of eustody under great seal, 121; Accountant-general of Court of Chaneery subjeet to order of Lord Chaucellor to declare trust of money or stock paid or transferred as security for committee, 122; Accountant-general subject to like order to declare trust of moncy or stock belouging to lunatic paid or transferred, 122; items in accounts distinguished by masters to be submitted to, 124; petition to, by persons objecting to masters receiving proposal relating to estate or person, 125; to direct how eosts shall be paid and borne where masters certify that proposal or inquiry was improper, 125; to make order as to costs where persons require masters to report on proposal, 125; may make order respecting costs where application is made to him as to proposals, etc., which might have been brought before masters in first iustance, 126; may limit or dispense with inquiry as to next of kin, 126; may dispeuse with attendance of ncxt of kiu on proceedings, 127; attendanee before, of next of kin who attend before masters, 128; special report to, may be made by masters pending inquiry, 131; special leave of, for presentation of petitiou against confirmation of report, 132; confirmation by, without petitiou, of reports not objected to, 132; fiat of, on such reports, to operate as au order, 132; confirmation, by petition, of reports, in what cases, 133; to make general orders as to orders in lunaey, 22, 133; orders to be communicated to the masters, 133; orders to be entered by registrar in lunacy, 134; visitors to make reports to, 23, 136; to be submitted to him annually or oftener, 23, 136; visitors to make special reports to, 23, 136; visitors required to do so when they have been unable to discover the residencc of luuatic or have otherwise been prevented from seeing him, 136; may appoint persons to whom reports may be communicated, 23, 137; may make special order as to when reports may not be destroyed till death, 23, 137; may order committee of estate to surrender lease and accept renewal, 139; may order lunatic's property to be sold or mortgaged for debts, maintenance, costs, etc., 140; to direct mode of charging future maintenance of lunatic on interest not in possession, 141; may order expenses of improvemcnts to be charged on estate, 141; may make orders for application of surplus monies, 142; may apply property, where very small, directly for luuatic's maintenance without grant of custody of estate, 142; may order sale of same, 143; to make provision for temporary maintenance of temporary lunatic, 143; may order committee of estate to convey land in performance of contracts, 144; may dissolve partnership, 144; may order sale, partition or exchange of land, 145; may order land to be sold for building purposes, 146; may order assignment of busincss premises, 146; may order undesirable lease to be sold, 147; may approve of agreements made by committee of estate, under 1 Geo. i. c. 10, 147; may order building and other leases to be made by committee of estate, 147; may order committee of estate to make leascs of mines, 148; to direct application of produce of newly opened mines, 149; to order committee to exeeute leasing powers of lunatic having limited estate, 149; committee may accept surrendcr and make new lease, nuder order of,

Lord Chancellor—*continued.*
150; may order committee to exercise powers vested in lunatic for his own benefit, 151; may order committee to execute power vested in lunatic as trustee or guardian, 151; appointment of new trustees by committee under order of, 152; may make orders respecting land or stock on appointment of new trustees, 152; may order stock belonging to a lunatic to be transferred, 152; may order costs to be paid out of estate, 154; powers of, under Act, to extend to Colonies, etc., 154; to limit time for trial of traverse, 155; may order security to be given, 155; may extend time for trial, 24, 155; may order new trial, 25, 155; may make orders for custody of the person and management of estate notwithstanding traverse, 25, 156; may order inquisition to be superseded when liberty to traverse has been applied for, 25, 157; may make general orders for carrying Acts into effect, 26, 157; for regulating proceeding before and by masters, 26, 158; for regulating duties of officers in lunacy, 26, 158; for altering course of proceeding prescribed by Acts, 26, 158; order of last description to be laid before Houses of Parliament, 26, 158; may be annulled by either House, 26, 158; may empower committee of estate to grant leases binding on issue or remaindermen, 163; may order issue as to alleged insanity to be tried in common law court, 21, 167; may order new trial on new inquiry, 25, 168; application of sect. 151 of 16 & 17 Vict. c. 70, to orders made pending new trial or inquiry, or petition for same, 169; power to supersede commission of lunacy upon terms and conditions when liberty to traverse has been applied for, 25, 169; provisions in former Act in cases where traverse has been applied for, to apply, 170; may order payment of costs of any petition, inquiry, inquisition, issue, traverse, or other proceeding, 26, 170; such orders to have the same force as orders made by the Court of Chancery, 26, 170; on report of master in lunacy, or commissioners in lunacy, affidavit, or otherwise, may make orders as to unprotected property of limited value, without inquisition, 27, 37, 171, 172, 333; may order land, stock, or other property, to be sold or mortgaged, 27, 172; and direct application of proceeds, 27, 172; may make general orders for regulating proceedings as to application of property of limited value of lunatic not so found by inquisition, 28, 172; may make orders as to application of property of person who on trial of indictment has been acquitted on ground of insanity, 28, 173, 575; extension of his powers of charging lunatic's estate, 173, 174; may make general or special orders respecting duties of visitors, 23, 175; may direct visitors to make inquiries and reports in reference to alleged lunatics, 175; half-yearly report to, of visitors of lunatics of number of visits made, 175; of patients seen, 175; and of miles travelled, 175; return to be made to, by visitors of all sums received by them for travelling expenses or upon any other account, 175; may order retiring annuities to present medical visitors, 176; power of, to remove visitors, 17, 176; to appoint clerks to visitors and fix their salaries, 176; may order superannuation allowances to officers in lunacy, 177; power to remove registrar in lunacy, 177;

Lord Chancellor—*continued.*
may make order for taxation and payment of costs after death of lunatic, 165; power of, to manage and administer estates of lunatics, 24; and to dispose of same, 24; when to appoint commissioners in lunacy, 185, 624, 625; oath to commissioners to be administered by, 186; may remove the secretary, 188; to approve of appointment of future secretary, 188; may direct place for meeting of commissioners to grant licences, 191; revocation of licences by, 208; prohibition of renewal of licence by, 51, 55, 208; may limit the number of visits of commissioners to licensed houses, 218; persons found lunatic on inquiry by direction of, not to be discharged by commissioners or visitors, 229; reports of commissioners to, 233, 282, 625; return of commissioners to, 233, 625; may appoint persons to examine private register of persons in unlicenced houses, 237; reports as to such houses may be laid before, 37, 237; may order removal of lunatic from unlicenced house, 37, 238; report to, of commissioners as to property of lunatics not protected, 37, 238; may appoint guardian and receiver of estate of person detained as a lunatic, 239; order by, as to application of income for maintenance and costs, 239; or investment of overplus of income, 239; may direct orders to be in force for what time after person ceases to be detained as a lunatic, 239; may direct commission in lunacy to issue, 239; may direct inquiries by masters in lunacy, 240; may order visitation and examination of lunatic under care of a committee, 29, 249; or of person deriving no profit therefrom, 249; of State or criminal lunatic, 249, 576; of person under restraint, or represented to be a lunatic, 249; and direct report to be made thereon, 250; may order special inspection of any place where a lunatic, or alleged lunatic, is confined, 29, 250, 302; may direct sum to be paid to person so employed, 250; who meant in Act by, 251; power to order discharge of single patient in unlicenced house, 37, 275; on representation of commissioners may require statement as to property of lunatics, 278; obstructing execution of orders of, penalty, 29, 283; application to, as to expenses incurred in removal of lunatics from India, 599; to appoint committee for care and protection of person and estate, 601; powers of, extended to Lord Keeper and Commissioners of Great Seal, 601; jurisdiction of, provisions of Supreme Court of Judicature Acts as to, 15, 16, 179; power of, to fix fees and per centages on estates of lunatics, and the fees and per centages to be taken in the Courts, 19, 180; may award commission for inquiring into mental condition of persons apparently insane who may endeavour to gain admittance to the King, 581, 582; may order discharge of such persons on their becoming sane, 582. See also Private lunatics.
Lord High Treasurer, intrusted with commitment of lunatics, 13. See also Treasury.
Lords Justices, interpretation of, 100; jurisdiction of, 15, 99, 100; power to act either alone or jointly with Lord Chancellor, 15, 100; refusal to order costs to be paid by parties who presented petition, where alleged lunacy was not proved, 25.
Lords Justices of Appeal in Chancery, jurisdiction of, with regard to

Lords Justices of Appeal in Chancery—*continued.*
lunatics, transfer of, to High Court of Justice, 180; or to Court of Appeal, 180; jurisdiction of, provisions of Supreme Court of Judicature Acts as to, 15, 16, 179.
Lord Keeper of Great Seal, exercise by, of Lord Chancellor's powers, 601.
Lord Keeper, or Lords Commissioners of Great Seal, may award commission for inquiring into mental condition of persons, apparently insane, who may endeavour to gain admittance to the King, 581, 582; may order discharge of such persons from custody on recovery of sanity, 582.
Lord of Manor may appoint attorney for lunatic to take admittance in certain cases, 138; may impose and demand fine upon admittance, 138; on nonpayment, may enter and receive rents, 138; to account yearly, 138; to deliver up possession on payment of fine and costs, 138; unlawful fines imposed by, may be controverted, 139; no forfeiture for not appearing or not paying, 139.
Low Layton, jurisdiction of commissioners in lunacy as to, 45, 191.
Lucid intervals, 96.
Lunacy, definition of, 95, 236; provision for temporary maintenance during, 143; how far a sickness within 9 & 10 Vict. c. 66, s. 4, 428.
Lunacy Acts interpreted, 482.
Lunatic pensioners—Chelsea and Greenwich Pensioners, 531.
Lunatic wards in workhouse, 327.
Lunatic prisoners for debt, may be sent by order of Secretary of State, to Bethlehem Hospital, or to any other asylum, 611; upon recovery may be sent back to Queen's Prison, 611; or if no longer liable to imprisonment, may be discharged, 611; escape of, from Bethlehem Hospital or other asylum, 611; examination of, 611; certificate of medical man, as to insanity of, 611.
Lunatics, classes of, 1; admissibility of, as witnesses, 214; in asylums and gaols, visitation of, by commissioners, 248, 576; admission of, into asylums, 304, 368, 369; visitation and examination of, by order of Lord Chancellor or Secretary of State, 249, 576; special visitation of, 250, 281, 576; special visitation of, by order of commissioners, 281; wandering at large, provision for sending them to asylums, 80, 393, 394; not under proper care or control, or cruelly treated or neglected, duty of constables, relieving officers and overseers with regard to, 394; when friends or relations not to be restrained from taking care of, 396; relative of, be named in order for admission, 495; notice of death to be sent to relatives, 495; discharge of, by commissioners when certificates are incorrect or defective, 496; no special provision as to poor lunatics until the present century, 12; not paupers, registered hospitals for, 39; marriage of, before declared to be of sane mind, as to the nullification of marriage, 157; estate of, powers of Lord Chancellor and Lords Justices of Appeal in Chancery, in regard to custody of, not transferred to High Court of Justice, 179; interpretation of word lunatic, 236, 298; not so found by inquisition, claim upon estate of, by guardians, for past maintenance in workhouse, 431.
See also Criminal lunatics. Pauper lunatics. Private lunatics. Patients.

Lunatics in India may be removed to United Kingdom by order of Supreme Court, 92, 600; transcript of inquisitions and orders to be transmitted and entered on record, 600; to be acted upon in United Kingdom, 600, 601; supersedeas, 601.
Lunatic prisoners in India, may be removed to United Kingdom, 576, 577; how expenses of removal are to be defrayed, 577; may be recovered from lunatic's estate, 577.
Lutwidge, R. W. S., to be secretary to commissioners in lunacy, 188; appointed one of commissioners in lunacy, 188; evidence of, on detention of pauper lunatics in workhouses, 324; death of, 188.
McNaughten's case, 567.
Maintenance of family of lunatic, allowance for, 96; of lunatic, his property may be sold, etc., for, 140; as to charge of future maintenance on interest not in possession, 141; temporary, of temporary lunatic, provision for, 143; produce of newly opened mines to be applied, if necessary, for lunatic's maintenance, 149; of lunatic not so found by inquisition, application of his property when of limited value, 27, 37, 171, 333; Court of Chancery in its ordinary jurisdiction cannot make order for, unless property has been placed under the administration of the court, 171; of person acquitted on the ground of insanity, or of his family, application of his property for, 173, 575; of lunatic, his property may be charged with, 173; of lunatics, visitors to inquire as to, 175; of lunatic, application of income of estate towards, 239, 525; under order of Lord Chancellor, 239; of lunatic, out of his estate, 416; of pauper lunatic in asylum of other county or borough, contract for, 367, 368, 484; undertaking for payment of charges for, 369; rate of payment for, to be fixed by committee, 377, 419; order of justices upon guardians for cost of, 417, 420; to what asylums order shall extend, 426; when chargeable to common fund of union, 426, 629; liability of relatives with respect to, preserved, 431; of pauper lunatic in asylum, etc., to be charged to common fund in future, 537; of criminal lunatics and insane prisoners, expense of, how borne, 570–574; legislation with regard to, 570–574; in asylum, of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, order for payment of, 584; in asylum, of criminal lunatic, order for payment of, 590, 592; application of his property towards cost of, 590, 616; of insane prisoner, weekly payments, to be fixed by order of justices, 594; of criminal lunatics, provisions of former Act to apply to criminal lunatic asylums, 607; of insane prisoners, payments by guardians for, chargeable to common fund, 574, 615; order for, of lunatic wife sent to asylum under warrant of Secretary of State, made on settlement parish, the husband being irremovable, 589; of lunatics not so found by inquisition, orders of Chancery Division of High Court of Justice as to, 171; in county or borough asylums, registered hospitals or licenced houses, parliamentary grant in aid of cost of maintenance, 332, 563–565; of lunatics, who are not paupers, in registered hospitals, 39; of pauper lunatics in asylum, limitation of time for payment by guardians, 331; of lunatic whose settlement is in a parish in a Gilbert's Union, on whom should order be made, 420; of lunatic out of his estate,

Maintenance—*continued.*
sect. 9 of the 16 and 17 Vict. c. 97, can only be acted upon during the lifetime of the lunatic, 416; of lunatic in asylum, order of justices upon guardians or overseers, cannot be appealed against 419; of lunatic who is chargeable to common fund, how, when there is a breach of residence, 427; computation of period of residence, 428; of lunatic in workhouse as to re-imbursement under sect. 104 of the 16 and 17 Vict., c. 97, of past cost of, 431; that section only applies during lunatic's lifetime, 431; of lunatic in asylum, order for, when the lunatic leaves the parish from which she is irremovable, and is then sent to asylum, 422; of idiotic paupers in idiot asylums or in workhouses of other unions, payment by guardians, 523, 558; of pauper, guardians may re-imburse themselves the cost of past maintenance out of his property, 528; of criminal lunatics and insane prisoners, charge transferred from settlement parish to common fund, 574; of criminal lunatic in asylum, order of justices may be made after expiration of prisoner's sentence, 589; as to justices making order for repayment of past maintenance, 590; committed from a borough, but imprisoned in county gaol, under contract, and from thence sent to Broadmoor, as to the proper justices to make the order, 589; of insane prisoner in criminal lunatic asylum, order of justices upon guardians, 594, 595; service of order need not be accompanied by grounds of order, or by particulars of settlement, 595; of criminal lunatic in licenced house, as to payment for by guardians, without order of justices, 589; of pauper lunatics who are members of benefit or friendly societies, recovery of cost of, 532, 533.
Malady, patients afflicted with contagious or infectious, may be excluded from asylum, 377.
Management of asylum, regulations as to, 376; rules as to, 376; annual report of committee as to, 383.
Management of estate of lunatic, 239.
Managers of benefit or friendly societies, payment by, to guardians, of money due to lunatic pauper, 532, 533; recovery of such money when managers refuse to make payment, 533.
Managers of Metropolitan Asylum District, Lunacy Commissioners may appoint some person to attend meetings and take part in proceedings of, 540.
Mandamus, when it will not lie, 438.
Manslaughter, prosecution for, 75, 214, 315; admissibility of lunatic as a witness, 214.
Marriage of lunatic before he or she is declared to be of sane mind, nullification of, 157.
Married woman, a lunatic in asylum, order on husband for costs of maintenance, 529.
Married women, estate of, 172.
Master of workhouse, power of, to detain paupers in, on the ground of insanity, 557; duty of, on admission of wandering lunatics, 393; book to be kept by, for observations of visiting committee, 325, 501, 552; to lay book before visiting commissioners, 325, 501, 552; actions against, for assault and false imprisonment, 90; entry of lunatics in in-door relief list, 520.

Masters in Chancery, inquiries and other matters as to estates of lunaties formerly referred to, to be conducted by masters in lunacy, 17, 102; to ascertain amount of expenses of custody and of removal of lunatic from India, 599.

Masters in lunacy, interpretation of, 100; to be two in number, 16, 102; duration of office, 17, 102; the present masters to continue in office, 16, 102; vacancies to be filled up by Lord Chancellor, 16, 102; qualification, to be serjeants or barristers, 17, 102; to take oath, 17, 102; form of oath, (schedule 2), 161; rank and precedence of, 102; to have powers, duties, and authorities of commissioners under writs de lunatico inquirendo, 17, 102; to conduct inquiries and other matters connected with the persons and estates of lunatics which were formerly referred to masters in Chancery, 17, 102; to discharge such other duties as Lord Chancellor may direct, 18, 103; powers joint and several, and duties may be performed either separately or together, 18, 103; their duties, to be performed under regulations of Lord Chancellor, 18, 103; to discharge duties formerly belonging to clerk of the custodies of idiots and lunatics, 18, 104; their salaries and retiring annuities, 17, 104; fund, out of which to be paid, 17, 108; power of Lord Chancellor to remove and grant annuities to future masters, 17, 104; power of masters to appoint subordinate officers, 17, 105; their chief clerk, 17, 105; to be ex-officio visitors of lunatics, 105; masters and visitors may form themselves into a board, 18, 106; to be paid travelling and other expenses, 107; to certify as to per centages to be paid, 109; commission of lunacy to be directed to, 19, 112; general commission of lunacy may be issued to, 20, 112; their powers under it, 20, 113; examination by, of alleged lunatic without a jury, 114; to take evidence and certify, 114; certificate of, as to expediency of a jury, 20, 114; certificate of, without a jury, to be deemed an inquisition, 21, 114; special commission may be issued to any fit person or persons in addition to the masters, 116; examination by, under 8 & 9 Vict. c. 100, s. 95, to be discontinued, 118; may direct how evidence shall be taken, 119; may administer oaths and take recognizances, 119; cross-examination and re-examination of witnesses by or before masters, 120; may issue advertisements, 121; to approve of security given by committee of estate of lunatic, 121; to authorise payment or transfer of money or stock as such security, 122; may deliver out deeds of lunatic, 122; may authorise payment or transfer into court of money or stock belonging to lunatic, 123; form of allowance of account by, 123; may distinguish items in account, 124; may receive proposals as to managing, etc., of estate, and report, 124; may receive other proposals and conduct inquiry relating to estate, and any proposal or inquiry relating to the person, and report thereon, 124; to cease from proceeding on proposal or in inquiry, pending application to Lord Chancellor by persons objecting, 125; may certify as to propriety of proposal with regard to costs, 125; to report on proposal if insisted on by person requiring, 125; on application not being made to masters costs may be ordered to be paid, 126; to inquire and certify concerning next of kin, 126; not to inquire as to next of kin where property is exempted from fees

Master in lunacy—*continued.*
and per centages, 126; to report as to inexpediency of inquiry respecting next of kin, 127; may dispense with strict proof of pedigree, 127; to determine which of next of kin shall attend proceedings, 128; may appoint guardian for lunacy, 128; may revoke appointment, 128; may consolidate proceedings relating to members of one family, 129; may open and deliver out will, 129; may inquire respecting interest in stock of lunatic out of jurisdiction, 129; may direct times, etc., of proceeding before them, 130; to inquire into delays, 130; may disallow costs, 130; to certify as to costs of attendance of counsel before allowance, 130; may report specially pending inquiry, 131; their reports to be divided into paragraphs numbered, 131; reports to be filed with registrar in lunacy, 131; objection to draft report may be brought, 131; petition against confirmation of report not to be presented, 132; confirmation of report when not objected to, 132; report submitted for confirmation without petition, its contents and operation, 132; cases in which reports shall be brought before Lord Chancellor for confirmation by petition, 133; communication to, by registrar, of orders of Lord Chancellor, 133; to certify to accountant-general as to money orders, 135; report of, when lunacy is temporary, 143; security to be given to, by person desiring traverse, 155; may make order for custody of person and management of estate on traverse of inquisition, 25, 156; proceedings before and by, Lord Chancellor may regulate, 26, 158; may allow investigation to be carried back for more than two years previous to time of inquiry, 22, 167; report of, as to alleged lunatic possessing property of limited value, 27, 171; Lord Chancellor may make general orders as to duties and powers of masters in regard to proceedings in such cases, 28, 172; power to summon witnesses, 174; change of name—commissioners appointed under former Act to be called masters, 104, 184; rank and precedence of, 184; examination of lunatics in asylums by direction of Lord Chancellor, 239; evidence to be taken by, 240; to report to Lord Chancellor, 240; may summon parties, 240; may administer oaths, 240; may take evidence either *viva voce* or on affidavit, 240; may require production of books, papers, etc., 240; reference of inquiries to, 240.
Matron of asylum, superannuation allowance to, 380, 488.
Medical attendant, on patients, not to sign certificates for admission of patients into licenced houses or hospitals, 197; in registered hospital, 64, 209; when to enter in book of admissions form of patient's disorder, 73, 210; penalty for omission, 211; to draw up and sign statement of cause of death of patient, 213; to transmit copy to commissioners, to person signing order of admission, to registrar of deaths, and to clerk of visitors, 213; penalty for omission, 213; when to be resident in licenced house, 64, 214; when to visit daily, 214; in other cases, how often to make visits, 214, 215; number of visits by, may be lessened, when, 215; to enter reports in medical visitation book, 64, 215; penalty for omission, 216; untrue entry, a misdemeanor, 216; to make entries in case book, 64, 216; in what form to make entries, 216; to transmit copies of entries to commissioners when required, 217; penalty for neglect,

Medical attendant—*continued.*
217; indicted for making false entries in medical visitation book, 220; certificate by, on removal of dangerous patient, 226; examination of, previous to order for discharge of patients detained without sufficient cause, 228; statement by, against such discharge, 228; how often to visit patients in unlicensed house, 33, 235; to make entries in medical visitation book, 33, 234; who meant by, 235; of licenced house or hospital not to sign certificate for reception of patient, 272; of unlicenced house may visit single patient less frequently than once a fortnight, 33, 273; to make annual report to commissioners, 33, 274; and other reports if required, 274; to prepare statement as to death of patient, 276; to be present on examination of pauper lunatic as to settlement or appeal, 440; when not to sign certificate, 494.
Medical Case Book—see Case Book.
Medical certificate for admission of patient, signing of, by disqualified persons, penalty, 70, 197, 625; copy of, to be sent to commissioners or clerk to visitors, 211; when a copy to be given to persons released from asylum, etc., 214; inspection of, under 14 & 15 Vict. c. 99, s. 6, 214, 221; inspection of, by visiting commissioners, 218; inspection of, by visitors, 219; production of, to visiting commissioners and visitors, 221; to continue in force notwithstanding temporary removal, transfer, or escape of lunatic, 233; into unlicenced house, 33, 235; copy to be sent to secretary of commissioners, 32, 235; in the case of a single patient, 270; action for negligence in signing, 70; prosecution for signing without examining patient, 70; invalid where examination was not made within time limited, 72, 73; liability of medical man for signing, 72, 73; liability of proprietor for receiving patient, 72, 73; for admission of lunatic, not a pauper, into licenced house or hospital, 68–72, 265–268, 287; for reception of pauper lunatic, 269, 287; instructions as to filling it up, 547; of single patient, 270; to state facts upon which opinion of insanity has been formed, 271; amendment of, 271; what medical practitioners not to sign, 68, 272, 494; penalty for signing contrary to Act, 272; copy of, to be furnished when patient transferred to another asylum, 277; to be inspected by visitors, 382; copy to be sent to commissioners, 412; penalty for signing contrary to Act, 442; false certificate a misdemeanor, 443; in case of private patient in licenced house or hospital, form of it, 287; in asylum, form of it, 460; who are prohibited from signing, 33, 272, 494.
Medical certificate for admission of pauper lunatic into asylum, 309, 390, 392, 395, 400; to be conclusive in certain cases, 393; remuneration of medical men, 396, 397; form, 400, 460; of private patient, 401; who disqualified for signing, 402; to state facts upon which opinion of insanity has been formed, 402; on removal of pauper lunatic to or from asylum, 404; as to lunatics discharged on trial, 405.
Medical certificate for reception of lunatics, amendment of, 69, 309, 411, 495; copy to be sent to commissioners, 412; defective or incorrect, discharge of patient by commissioners, 69, 70, 496; of

Medical certificate—*continued.*
insanity of prisoners in Queen's Prison on removal to Bethlehem Hospital, 611; of insanity of convicts in Milbank Prison on removal to asylums, 596; on removal or discharge of criminal lunatic, 606.
Medical certificate as to cause of death of person upon whose body an inquest has been held, 506.
Medical Journal to be kept, 33, 273, 314; form of it, 35, 467; entry to be made in, with regard to single patients visited less frequently than once a fortnight, 33, 273; to be produced to visiting commissioner and signed by him, 273; untrue entry, a misdemeanor, 273; of reasons of medical officer for refusing to permit pauper lunatic to be visited, 386; medical officer to keep, 412.
Medical men, actions against, for illegal restraint, 88–90; attending persons during their last illness, duty of, to give certificate as to cause of death, 415; duty of person who receives such a certificate to send it to registrar, 415.
Medical officer of asylum, appointment of, 303, 379; to be registered under Medical Act, 379; to be resident therein, 64, 379; removal of, 379; salary of, 379; in what cases he may refuse permission to visit pauper lunatics in asylum, 386; not to sign certificate for admission of lunatics, 402; his certificate with reference to proposed discharge of lunatic who is dangerous, 409; entry to be made by, in register of patients, 412; penalty for omission, 412; to make entries in Medical Journal, 412; and in Case Book, 412; penalty for omission, 413; to make and sign statement on admission of patient, 412; penalty for omission, 412; to sign notice and statement with regard to death of patient in asylum, 413.
Medical officer of district asylum, certificate of, as to detention in, of persons on the ground of insanity, 521, 557.
Medical officer of district school, certificate of, as to detention in, of persons on the ground of insanity, 521, 557.
Medical officer of union or parish, appointed by guardians to visit pauper lunatics in asylums, as to consent of visiting justices to such visits, 386; visitation by, of pauper lunatics not in asylum, limitation of time for payment of fees by guardians, 388; chargeability of such fees to common fund, 389; action against, for assault and false imprisonment, 90; remuneration to, for certificates, 396, 397; to give certificate as to lunatic discharged on trial, 405; quarterly visitation by, of pauper lunatics, including imbeciles not in asylums, 305, 386–389, 493, 543–549; when in workhouse, 305, 324, 388; payment for, 305, 387, 388, 543, 544, 548; by whom to be paid and how to be charged, 387, 388; to make out a list of cases visited, 388, 543, 546; to state therein whether the lunatics are not properly taken care of, etc., 492; to send list to clerk to guardians, etc., 389; penalty for neglect, 389, 543; supply of forms for such list, 306, 389, 544, 546; when to make a *nil* return, 548; duty of, with respect to pauper lunatics declared to be proper persons to be sent to asylums, 307, 390, 543, 551; penalty for neglect of, 398, 544.
Medical officer of workhouse, certificate of, as to detention in, of persons on ground of insanity, 521, 557, 561, 562; certificate of,

Medical officer of workhouse—*continued.*
for detention of pauper lunatics in, to be laid before visiting commissioner, 562; duty of, with regard to lunatics therein, who are proper persons to be sent to an asylum, 305, 307, 492, 550, 551, 561, 562; quarterly returns as to lunatics in workhouse, 493, 510, 545, 551.
Medical treatment, patients who have been under, to be entered in medical visitation book, 215; of patients, observations of commissioners, 75.
Medical Visitation Book to be kept, 33, 64, 215, 235, 321; form of it, 35, 64, 279, 293, 504; entries to be made in, 74, 215, 216; penalty for omission to make entries, 216; indictment for false entries, 74, 220; untrue entries, a misdemeanor, 216, 236; inspection of book under 14 & 15 Vict. c. 99, s. 6, 216; to be produced to and signed by visiting commissioners, 235; copies of entries to be sent to commissioners and to clerk of visitors, 222, 500; penalty for non-transmission, 500; copy sent to clerk to be laid before justices, 223, 500; commissioners and visitors not required to make entries, 222.
Medical visitor, appointment of, 193; his remuneration, 194. See also Visitors.
Medicine, description of, to be entered in case book, 216.
Meetings of commissioners in lunacy for electing chairman, 187; for granting licences to be held quarterly, 191, 625; adjournment of, 192; for special purposes, convening of, 192; number of commissioners to form a quorum, 191, 192.
Meetings of committee of visitors, 300, 352; adjournment of, 353; how constituted, 353; to be held on requisition of chairman or two visitors, 353.
Meetings of council of borough, acts which may be done at, 446.
Meetings of managers of Metropolitan Asylum District, Lunacy Commissioners may depute one of their number, or may appoint a special commissioner to attend, 540.
Meetings of visitors of houses licensed by justices, 60, 195; to be held privately, 60.
Members of benefit or friendly societies becoming insane, as to recovery of cost of maintenance, 333, 532, 533.
Mental condition of patients, inquiries to be made by commissioners as to, 249.
Mental disorder, form of, to be entered in book of admissions, 210; in case book, 216.
Mental health of lunatics, visitors to make inquiries as to, 175.
Merton, jurisdiction of commissioners in lunacy as to, 45, 191.
Messengers in office of masters in lunacy, 16, 105; in office of registrar of lunacy, 16, 105.
Metropolis, removal of lunatics in, to asylum, suggested alteration in mode of examination by police magistrates, prior to order of removal, 555, 556.
Metropolitan Asylum Board, asylums of, reception into, of those metropolitan insane paupers who may lawfully be kept in a workhouse, 328, 329; to be deemed workhouses within meaning of the Lunacy Acts, 540; meetings of managers, commissioners in lunacy

Metropolitan Asylum Board—*continued.*
empowered to appoint one of their number, or a special commissioner to attend, 540; and to take part in their proceedings, 540.
Metropolitan commissioners in lunacy, appointment and duties under repealed Acts, 624; clerk of, to deliver up books, etc., to commissioners in lunacy, 190; report of, 37, 75, 96, 323, 575.
Middlesex, immediate jurisdiction of commissioners to extend to, 44, 191.
Miles travelled by visitors, half-yearly report to be made, 175; copy of report to be laid before Parliament, 175; travelled by commissioners, report of, to Lord Chancellor, 233, 625.
Military asylums not included in the word house as used in sect. 44 of 8 and 9 Vict. c. 100, 209.
Milbank Prison, removal of insane prisoners to lunatic asylum by order of Secretary of State, 596; how to be dealt with on becoming of sound mind, 596.
Mines, committee of the estate may make leases of, 148, 149; produce of newly opened, how to be applied, 149.
Ministers of religion, visitation of patients in asylums by, 378; in criminal lunatic asylum, 605.
Minute to be made by visiting commissioners in patients' book, 223.
Misdemeanor, commissioners, visitors, secretary, clerks, or assistant clerk, acting when disqualified, 196, 197; making additions and alterations to licenced house without consent, 199; giving untrue or incorrect notices, etc., with regard to applications for licences to houses for reception of lunatics, 47, 199; making untrue returns in connection with application for renewal of licence, 200; receiving two or more lunatics into unlicenced house, 207, 209; making untrue statement in book of admissions, 210; not transmitting notice and statement with respect to admission of patients to commissioners or clerk to visitors, 211; neglect to make entry of, or transmit notice of removal, discharge, or death of patients, 213; abusing, ill-treating, or neglecting patients, 29, 213, 443; making untrue statements in medical visitation book, 216; concealing or attempting to conceal patients on visits of commissioners or visitors, 220; or refusing to permit inspection of premises, 220; not giving full and true answers to questions of commissioners and visitors, 221; omitting to send copy of minutes of visiting commissioners with regard to doubtful patient, 223; receiving patient into unlicenced house without proper order and certificates, 236; person taking charge of such patient failing to transmit copy order and certificates, 236; failing to have such patient visited by medical attendant, 236; making false entry in medical visitation book kept in unlicenced house, 236; detaining patient in unlicenced house after order for removal by Lord Chancellor, 37, 238; receiving private patients into licenced house contrary to provisions of Act, 265–268; pauper patients, 270; ill-treating lunatics in licenced houses, 271; in asylums, 443; falsely, as a physician, etc., signing medical certificate, 273; making untrue entry in medical journal, 273; detaining single patient in unlicenced house whose discharge is ordered by Lord Chancellor, 275; receiving pauper lunatic into asylum without a proper order and certificate, 401;

Misdemeanor—*continued.*
private patients, 401, 402; untrue entries with regard to discharge, removal, escape, or recapture of lunatics, 416; physician, surgeon, or apothecary, signing false certificate, or person describing himself in certificate as physician, etc., 443; indemnity of graduates of London University, 469; detention of lunatics in licenced house after licence expired or revoked, 479; failure to transmit to commissioners statement with respect to single patients, 504; not reporting death of single patient to coroner, 505; illegal detention of dangerous lunatics in workhouses, 325, 518; ill-treating lunatics in criminal lunatic asylums, 608; person charged with, and acquitted on the ground of insanity, to be kept in custody, 569, 591; adjudication of settlement and order for payment of maintenance and other charges, 592.
Mitcham, jurisdiction of commissioners in lunacy as to, 45, 191.
Mitigation of penalties, 243, 245.
Money given by committee as security, payment into court by authority of masters, 122; belonging to lunatic, master may authorise payment into court, 123; received by commissioners for licences and searches, application of, 202, 625; by clerks of the peace, 203; paid under agreement for uniting in respect of expenses already incurred, how to be applied, 349; payable under contract for reception of pauper lunatics into asylum of other county or borough, how to be raised and paid, 368; how to be raised to defray cost and expenses of asylums, 371; by mortgage of rates, 372; repayment of, within what time, 374; of dissolved unions how to be divided, 364; payment of by guardians or overseers without an order of justices, 429; recovery of, by distress or action, 442; paid to superintendent or proprietor of asylum on account of lunatic, inquiries of commissioners may extend to, 500.
Moral treatment of patients, observations on, 75.
Mortgage, Lord Chancellor may order lunatic's property to be mortgaged for debts, maintenance, costs, etc., 140; on interest not in possession, how to be made, 141; made under Act, to be valid, 152; of property of lunatic not so found by inquisition, power as to, 27, 172.
Mortgages of rates, form, 372, 453; stamp duty, 453; how executed, 372; copies or extracts of, to be kept by clerk of the peace, 372; transfer of, 372; payment of interest on, 373; repayment of, 373; priority of, 374; accounts to be kept with regard to, 374; repayment of, within what time, 374; validity of, not to be questioned, 375; power to raise money to pay off, 375; persons lending money on, not bound to require proof of compliance with Act, 375.
Mortlake, jurisdiction of commissioners in lunacy as to, 45, 191.
Mother of private patient may order discharge or removal from hospital or licenced house, 225; from asylum, 409.
Mother, neglect of, by son, prosecution, as to application of the 16 & 17 Vict. c. 96, s. 9, to such a case, 87.
Murder—of lunatic, prosecution, 84; person charged with, acquitted on ground of insanity, to be kept in custody, 569, 579.
Mylne J. W., appointment of, as commissioner in lunacy, 184.

Name of relative to be inserted in order for admission of lunatic to asylum, 495, 551.
National Debt Commissioners, transfer to, of Suitors' Fee Fund account, 108.
Natural fool or idiot, defined by Blackstone, 4; custody and estates of, vested in the King, 7, 8, 10, 95.
Natural fool or idiot, custody and estates of, vested in King, grant of by him to a guardian, 11, 12.
Naval asylums not included in the word house as used in sect. 44 of 8 & 9 Vict. c. 100, 209.
Navy, prisoners becoming insane, 570, 617; removal to asylum, 617; removal to prison on becoming sane, 617; custody of persons in, found insane on trial by court-martial, 617; directions as to, may be given by Admiralty, 617.
Nearest of kin. See Kin.
Necessaries for patients in pauper lunatic asylums to be contracted for by committee of visitors, 357.
Neglect of lunatic by his brother, application of the 16 & 17 Vict. c. 96, s. 9, to the case, 87; of single patients, how punishable, 29, 36, 271; of patients in hospitals and licenced houses, 75, 213, 214, 271; in asylums, 443; of lunatic by relatives or other persons, 82–85, 394; of criminal lunatic, penalty, 608.
New burial grounds for pauper lunatics, provision of, 485.
New committee of visitors, appointment of, 345.
Newingtou (St. Mary), jurisdiction of commissioners in lunacy as to, 45, 191.
Newspapers, publication of lists of visitors in, 194; of appointment of clerk to visitors, 195; notice with respect to appointment of committee of visitors to be published in, 337. See also London Gazette.
Next of kin, interpretation of, 101; masters to inquire concerning, 126; to have notice of proceedings, 126; no inquiry as to, if property be exempt from fees, 126; Lord Chancellor may limit or dispense with inquiry as to, 126; masters to report as to inexpediency of inquiry respecting, 127; masters may dispense with proof of pedigree, 127; Lord Chancellor may dispense with attendance of, on proceedings, 127; masters to determine which shall attend proceedings, 128.
Night, visitation of licenced houses or hospitals by, 58, 60, 61, 224.
Non-coercion system, inquiries to be made as to, 220, 249.
Non-resident relief, lunatics in receipt of, to be visited and reported in quarterly return, 387.
Nonsuit, when plaintiff shall be, 246.
Norwood, jurisdiction of commissioners in lunacy as to, 45, 191.
Notice of appeal by guardians under Local Act against order adjudicating settlement of pauper lunatic, 436.
Notice to be given to alleged lunatic on presentation of petition for inquiry, 20, 113; to be given by alleged lunatic on demand for jury, 113; and filed with registrar, 113; what notice to be given to alleged lunatic when he is not within jurisdiction, 20, 115; of proceedings to be given to next of kin, 126; to be given, which of next of kin shall attend proceedings, 128; of objections to draft report

Notice—*continued.*
of masters, 132; to be given to alleged lunatic when report of commissioners in lunacy is to be taken as a petition, 22, 118; demand for jury without notice filed with registrar, 169; of demand for jury filed with registrar, withdrawal by alleged lunatic, 169; to alleged lunatic of order for application of property when of limited value, 171; visits to licenced houses and hospitals by visitors and commissioners to be made without, 195, 217; of appeal against conviction, 245; may be sent by post, or left at the proper office, 248; of admission of lunatic, form of, 291, 461; transmission of. 461; of discharge or death, 35, 259, 462; with regard to death of patient in asylum, 413; to whom to be sent, 413, 414; of death of lunatic to be sent to relatives, 495, 551; to be given with respect to appointment of committee of justices to provide asylum, 337, 346; as to expenditure for repairs, etc., to pauper lunatic asylum, 363; to determine contract for reception of pauper lunatics into asylum of county or borough, 367; of intention to grant superannuation allowance to officer or servant in asylum, 381, 488; to be given by medical officer as to pauper lunatics proper to be sent to asylums, 390; of intention of visitors to discharge lunatic from asylum, 406; on discharge of lunatic upon the undertaking of a relative or friend, 407, 408; on death, discharge, or removal of patient, 317, 318, 415; to clerk of peace as to lunatic where settlement cannot be ascertained, 423; of appeal, 432; time within which to be sent, 435; of abandonment of order adjudicating settlement of pauper lunatic, 439; of council of borough to Secretary of State as to exercising powers of Act, 446.
Notice of intended application to commissioners for licence, 47, 197; of intended application to justices to licence house for reception of lunatics, 53, 198; to be transmitted to commissioners, 489; what it shall contain, 53, 198, 199; of name of new superintendent, 199; of additions to and alterations in licenced house, 199, 489; when wilfully untrue or incorrect, a misdemeanor, 199; for renewal of licence, 200; with regard to application for transfer of patients to new house, 206; to whom and when to be given, 206; to relieving officer and overseers in such case, 207; to person who signed order for reception of patient, 206; of revocation of licence, 207; of prohibition to renew, 208; of admission of patient into licenced house, to be sent to commissioners, or to clerk to visitors, 73, 211, 279, 321, 496; of escape of patients, 34, 211; of having been brought back, 212; of death, discharge, or removal of patient, 34, 212, 213, 259, 402; of special meetings of commissioners to be given by secretary, 224; of special visits by commissioners or visitors for discharge of patient, 229; duty of superintendent in such case, 229; with regard to single patients in unlicenced houses, 236; of recovery of patient, to whom to be given, 276, 323; of discharge of single patient, to be sent to commissioners, 277; of change of residence of person having charge of single patient, 278; of admission and statement, form of, 279, 289; of dismissal of nurse or attendant to be sent to commissioners, 279; as to meetings of committee of visitors, 353; to be given by master on admission into workhouse of insane persons wander-

Notice—*continued.*
ing abroad, 393; of alterations of licenced house to be given to commissioners, 54, 489; of appeal against order of adjudication of settlement of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 585; of appeal against order of justices in the case of insane prisoners, 592; of appeal against order of adjudication of settlement of criminal lunatic, 593; given by guardians may be signed by their clerk, 593.
Nuisance arising from discharge of sewage from asylum, duty of committee of visitors, to prevent, 362; and to prevent other nuisances in connection with asylum, 363.
Nullification of marriage when a lunatic marries before he or she is declared of sane mind, 157.
Number of justices to be elected on committee of visitors, 352; of officers in asylums, rules as to, 375; of beds, 376; of lunatics in workhouses, 519.
Nurse, qualifications, duties, remuneration, etc., 75; ill-treating patients, guilty of misdemeanor, 75, 213; penalty for ill-treating lunatic, 75, 271, 443; notice of dismissal of, to be sent to commissioners, 279, 303; by clerk of asylum, 380; penalty on, for ill-treating lunatics in criminal lunatic asylum, 608.
Oath to be taken by masters in lunacy, 17, 102; evidence upon, may be taken by masters, 114; masters may administer, 119; to be taken by masters in lunacy, (sch. 2), 161; administration of, 242, 507; defined, 253; of commissioners in lunacy, 186, 625; by whom to be administered, 186; of their secretary and clerks, 625; of visitors of houses licenced by justices, 186; of their clerk, 195; of his assistant, 196; administration of, by masters in lunacy, 240; administration of, by commissioners and visitors to witnesses, 242; penalty for refusing to be sworn, 242; examination of witnesses, 507.
Objection to draft report of masters may be brought, 131; if insisted on, may be brought forward in opposition to confirmation of report, 132; to appeal, what may or may not be allowed, 436.
Observations of visiting commissioners and visitors to be entered in visitors' and patients' books, 222; of visiting committee with regard to lunatics in workhouse, 501, 552.
Obstructing execution of orders of Lord Chancellor, Secretary of State, or commissioners, penalty, 29, 283; relations or friends visiting lunatics, penalty, 232.
Occupations of patients, observations of commissioners on, 75; inquiries to be made as to, 220, 249.
Occupier of a house, duty of to give notice to registrar of death of any person in such house, 414; expression "occupier" as used in the Registration Act, 1874, to include the chief officer of an asylum, 414.
Offences, persons imprisoned under charge of, how to be dealt with on becoming insane, 612–614; under repealed Acts, may be prosecuted, 247, 265.
Offenders against Act, proceedings against, 243; prosecution of, by order of commissioners and of visitors, 246; becoming insane, 568.

Office of commissioners in lunacy, duration of, 185.
Office of secretary to visitors of lunatics, abolition of, 16, 107, 180; compensation to holder of, 107; of accountant-general, abolition of, 134; and of accountant-general of Court of Chancery, 177.
Office copies of orders in lunacy, to be acted upon by accountant-general and Bank of England, 177.
Officer, ill-treating patients, guilty of misdemeanor, 213; penalty for ill-treating lunatic, 271, 443; allowing lunatics to escape, 443; prosecution of, for offences against Act, 444; conniving at escape, 502.
Officers in lunacy, in office of masters in lunacy, 16–20, 105; in office of registrar in lunacy, 16–20, 105; duties may be regulated by Lord Chancellor, 26, 158; duties and powers of, in regard to reports and proceedings as to alleged lunatics possessing property of limited value, 172; superannuation allowances to, 177.
Officers of asylums, rules as to number and description of, to be appointed, 376; appointment of, 303, 379; removal of, 303, 379; salaries of, 303, 379; superannuation allowances to, 303, 381; superannuation of, 487.
Officers dying in asylum, burial ground for, 477.
Officers of criminal lunatic asylum, appointment, removal, salary, and duties of, 604; may retake escaped lunatic, 607; punishment for allowing escape of lunatic, 607, 608; penalty for ill-treating lunatics, 608.
Offices attached to asylums, enlargement, etc., of, 357; committee may order additions, etc., to, 362.
Officiating clergyman, defined, 251, 284, 308, 449; order of, for reception of pauper lunatic into licenced house, 269; into asylum, 307, 308, 392; when he may order discharge of pauper patient from licenced house or hospital, 225, 322.
Old age, imbecility arising from decay of faculties through, would constitute lunacy, 236.
Opinion as to lunatic placed by his committee in care of a person for profit, 30; as to voluntary boarders in hospitals, 40; as to construction of the words dangerous lunatic, insane person, or idiot, 518.
Opinion upon insanity of patients, facts upon which it is founded to be stated in medical certificate, 271, 402.
Opinion of Law Officers of the Crown on questions arising out of the construction of sect. 90 of the 8 & 9 Vict. c. 100, with regard to care of single lunatics, 234.
Order of Chancery Division of High Court of Justice, for custody and maintenance of lunatic not so found by inquisition, 171.
Orders of commissioners in lunacy to be sealed with their seal, 187, 625; proof of, 187; authority of commissioners to make, 224; directing form of case book, 65, 216; for discharge of patient detained without sufficient cause, how to be executed, 228, 229; for admission of friends to visit patients in licenced house or hospital, 232; for visitation of single patient less frequently than once a fortnight, 273; for removal of lunatics from asylum, 408; for removal of lunatic paupers from workhouse to asylum, 498; for removal of pauper lunatics to asylum, 498, 551; effect of order, 498, 551; appeal against, 498, 551.

Order of committee of visitors, on county or borough treasurer, for payment of cost of repairs, etc., to pauper lunatic asylum, 363.
Order of justices for payment of fees by guardians to medical man for examination of pauper lunatics, necessity of order being made within six months from date of examination, 397; under sect. 94 of the 16 & 17 Vict. c. 97, for payment of cost of lunatic's maintenance out of his estate, can only be made during his lifetime, 417; upon guardians for maintenance of pauper lunatics in asylum, under sec. 96 of the 16 & 17 Vict. c. 97, cannot be appealed against, 419; for maintenance of a lunatic whose settlement is in a parish in a Gilbert's union, on whom to be made, 420; for maintenance of a lunatic in asylum, when the lunatic leaves the parish from which she is irremovable, and is then sent to asylum, 422; on guardians for payment of cost of burial, discharge, or removal of lunatic in asylum, service of order, 442; upon wife for maintenance of her husband, 530; upon guardians for maintenance of insane prisoner in criminal lunatic asylum, and for adjudication of settlement, 594, 595; service of such order need not be accompanied by statement of grounds of order, or by particulars of settlement, 595; adjudicating settlement of criminal lunatic, and directing payment of charges, after expiration of prisoner's sentence, 589; as to payment by guardians for maintenance of lunatic in licenced house, without order, 589; for repayment of maintenance of criminal lunatic in asylum, whether it can be made retrospective, 590; upon husband for maintenance of wife in asylum, 532; may be made by justices having jurisdiction in the union or parish, the guardians of which shall make the application, 532; upon trustees or managers of benefit or friendly society for payment to guardians of money due to lunatic pauper, 533; for increase of weekly rate of payment for pauper lunatics in asylum, 377; for reception of pauper lunatic into asylum, 391; form of it, 457; of officiating clergyman and relieving officer, 392; suspension of order, 392; of justices, with regard to wandering lunatics, 393, 394; lunatics not under proper care or control, or cruelly treated or neglected, 395; to what asylums order may extend, 399; guardians and overseers may pay money without order, 332, 429; made upon guardians or overseers not within jurisdiction of justices, 426; for payment of fees to medical men, for examining pauper lunatics, 396, 397; for seizure of property of lunatic, 417, 430, 525; upon guardians for maintenance of pauper lunatic in asylum, 330, 419, 420, 425, 426; to what asylums orders shall extend, 426; other than orders as to settlement of lunatic paupers, appeals against, 419, 445; need not be under seal, 478; jurisdiction of justices of borough not having a quarter session, 421; direction of, 421; jurisdiction of county sessions, asylum in borough, 421; unemancipated son in asylum, the father afterwards breaking his residence, 421; unemancipated child of Irish parents, birth settlement, 423; lunatic wife, 422; lunatic wife living apart from her husband, 422; for maintenance of pauper lunatics in asylums to be obtained by guardians in future, 332, 538; duty of clerk to guardians, 537; in the case of insane person or dangerous idiot apprehended under circumstances

Order of justices—*continued.*
denoting a purpose of committing an indictable offence, 583; when settlement is ascertained, 584; when it cannot be ascertained, 584; on settlement parish in the case of a lunatic wife sent to asylum under warrant of Secretary of State, the husband being irremovable, 589; for maintenance of insane prisoner, weekly payment by overseers or guardians, 594; for adjudication of settlement of panper, 419, 420; copy of, and statement of grounds to be sent to parish affected, 432; amendment of, on appeal, 437; abandonment of order, 439; adjudicating settlement of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 584; how when settlement cannot be ascertained, 584; appeal against, by churchwardens and overseers, 585; adjudicating settlement of criminal lunatic, 571, 572, 589, 592, 594; when settlement cannot be ascertained, 572, 590; to seize and sell property towards maintenance and other expenses, 573, 575, 590, 616; on county for maintenance of pauper lunatic when settlement cannot be ascertained, 332, 423; for removal to county asylum, hospital or licenced house, of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 584; appeals against, in the case of insane prisoners, 592; on husband for cost of maintenance of lunatic wife in asylum, 333, 529.
Order of Lord Chancellor, appeal against, to Court of Appeal established by the Supreme Court of Judicature Act, 1873, 16, 179; fee payable on, 110; to have same force as grant of custody under great seal, 121; general orders in lunacy, 133; what to contain, 22, 133; to be communicated by registrar to the masters, 134; to be entered by the registrar in a book, 134; copies of, to be evidence, 134; relating to money matters, to be acted on by accountant-general, 134, 135; present provisions with respect to, to what applicable, 136; to enable committee of estate to surrender lease and accept renewal, 139; for charging estate with expenses of renewal of lease, 139; for application of surplus monies, 142; for application of property, when very small, directly to lunatic's maintenance, 142, 143; for payment of cash for maintenance of temporary lunatic, 143, 144; sale of land in performance of contracts, 144; dissolution of partnership, 144; sale, partition, or exchange of land, 145; sale of land for building purposes, 146; assignment of business premises, 145; disposal of undesirable lease, 147; making of building and other leases, 147; lease of mines, 148, 149; committee executing leasing powers of lunatic having limited estate, 149; committee accepting surrender and making new lease, 150; exercise by committee, of power vested in lunatic for his own benefit, 151; exercise by committee of power vested in lunatic as trustee or guardian, 151; appointment of new trustees by committee of estate, 152; as to land or stock subject to trusts under Trustee Act, 1850, 152; for transfer of stock, 153; who to be named in, to make transfer, 153; for costs to be paid out of lunatic's estate, 154; for limiting time for trial of traverse, 155; for directing security to be given for proceeding to trial of traverse, 155; for new trial, 25, 156; for custody of

Order of Lord Chancellor—*continued.*
person and management of estate, notwithstanding traverse, 25, 156; superseding inquisition upon terms when liberty to traverse has been applied for, 25, 157; general, power to make, 26, 157; to be laid before Houses of Parliament, 26, 158; for new trial in common law court of issue as to alleged insanity, 21, 167; for new trial or new inquiry, 25, 168; reference in order to commission in lunacy to apply to issue and verdict in common law court, 168; application of sect. 151 of 16 & 17 Vict. c. 70, to orders made pending new trial or inquiry, or petition for same, 169; for superseding commission on terms and conditions where traverse has not been applied for, 25, 169; for payment of costs of any petition, inquiry, inquisition, issue, traverse or other proceeding, 25, 170; to have same force as orders made by Court of Chancery, 26, 170; as to property of limited value of lunatic not so found by inquisition, 27, 171, 172; notice of such order to be given to alleged lunatic, 171; sale or mortgage of land, stock, or other property, and application of proceeds, 171; for maintenance of lunatic not so found by inquisition, 171; general, for regulating proceedings as to application of property of limited value of lunatic not so found by inquisition, 28, 172; as to application of property of person acquitted on ground of insanity, 173, 575; as to charging lunatic's estate with monies advanced for maintenance, costs of inquiry, sale or mortgage, 173, 174; (general and special) as to visitation of persons found lunatic by inquisition, 23, 175; as to duties of visitors of lunatics, 23, 175; for removal of patient from unlicenced house, 238; for discharge of single patient, 275; for appointment of guardian and receiver of estate of person detained as a lunatic, 239; as to application of income for maintenance and costs, 239; or investment of overplus of income, 239; referring inquiries to masters in lunacy, 240; for visitation and examination of lunatics, 250; (special) when reports of visitors may not be destroyed till death, 23, 137; for payment and taxation of costs after death of lunatic, 165.

Orders in lunacy, office copies of, to be acted on by accountant-general and Bank of England, 177.

Orders of masters in lunacy, custody of person and management of estate on traverse of inquisition, 25, 156.

Orders of Lord Chancellor, Secretary of State, or commissioners, penalty for obstructing, 29, 283.

Order for reception of single patient into unlicenced house, 30, 32, 235, 270; copy to be sent to secretary of commissioners, 32, 235; by committee for reception into unlicenced house of person found lunatic by inquisition, 30, 32, 234, 493; approval of person signing, to temporary removal for health, 278.

Order for admission of patient into licenced house or hospital, 67, 68, 211, 265; copy of, to be sent to commissioners or clerk to visitors, 211; when a copy to be given to person released from asylum or private house, 214; inspection of, under 14 & 15 Vict. c. 99, s. 6, 214, 221; production of, to visiting commissioners and visitors, 218, 219, 221; approval of person signing, to temporary removal for benefit of health, 232; person signing, statement of

Order for admission—*continued.*
cause of death to be sent to, 213; pleading of, 240, 241; form of the order, 286; liabilities of persons signing, 265; what it shall specify, 494; how long to remain in force before it is acted upon, 494; how in special circumstances, 268; of pauper lunatics, 269, 320; form of it, 288, 400, 457; amendment of, 271; who not to sign, 272, 494; for transfer of patients to other asylums, etc., 276, 277; copy to be sent to commissioners, 412; name of relative to be inserted in, 495, 551.
Order for admission of pauper lunatic into asylum, how to be made, 309, 400; form of it, 400, 457; for reception of private patient, into asylum, 401; form of, 459; how long to remain in force, 494; for reception into asylum of persons found lunatic by inquisition, 494; for reception of lunatic into asylum, amendment of, 411; to be inspected by visitors, 382; name of relative to be inserted in, 495, 551.
Order for discharge of patient from licenced house or hospital by person signing order of admission, 225, 226; by commissioners, 227; by visitors, 228.
Order for discharge or removal of lunatic from asylum by person on whose order he was received therein, 408; how if such person is incapable of acting, 409; how with regard to private or single patients, 410.
Order for removal of pauper lunatic to or from asylum, 403; to be in duplicate, 403; endorsement of order, 405.
Order of Poor Law, now Local Government, Board extending time for payment of debts, 535; relating to insane persons wandering abroad, 393.
Order of Secretary of State for visitation and examination of lunatics, 249; penalty for obstructing, 29, 283; for removal to asylum or licenced house, of insane prisoner, form of order, 574; for removal to asylum of criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620, 621; as to execution of such order, 621.
Order of visitors of licenced house on clerk to make searches, 230; of commissioners on secretary to make searches, 231.
Outbuildings to asylums, enlargement, etc., of, 357; committee may order additions, etc., to, 362.
Out-door relief to pauper lunatics, 329; chargeability, 330.
Outhouse at licenced houses, etc., inspection of, 217, 219.
Overplus of lunatic's income, disposal of, 239.
Overplus after levying distress for penalties, 244.
Overseers, actions against, for illegal confinement, 90; in what cases notice to be given to, when application is intended to be made for transfer of patients to new house, 207; when they may order discharge of pauper patient from licenced house or hospital, 225, 226, 322; copy of notice of special visit of commissioners or visitors to be sent to, 229; defined, 449; order of, for reception of lunatic pauper into licenced house, 269; notice of recovery of, to be given to, 276; committee of visitors may require undertaking from, to pay cost of maintenance of pauper lunatic in asylum, 369; in what cases to make out annual list of lunatics chargeable to poor rates, 306, 384; duty of, to transmit quarterly lists of paupers visited to

Overseers—*continued.*
commissioners, 546; to transmit copies to visitors of asylum, 546; visitation of pauper lunatics in asylums, etc., by, 300, 321, 386; duty of, with regard to sending pauper lunatics to asylum, 307, 390–393, 492, 543, 544, 550; duty of, with regard to wandering lunatics, 81, 393; lunatics not under proper care or control, 81, 394; cruelly treated or neglected, 394; when justices may order to pay fee to medical man for examining lunatic, 397; penalty for neglect of duty, 307, 398; neglecting to execute order of removal to asylum, 399; on order of justices to remove pauper lunatic to or from asylum, 399; when to remove lunatics ordered by visitors to be discharged from asylums, 316, 403, 407; penalty for neglect to do so, 407; when to seize property of lunatic applicable to his maintenance, 417, 430, 525; receipt to Bank of England for dividends, 417, 431; notice of death of patient in asylum to be sent to, 317, 414; order of justices on, for maintenance of pauper lunatic, 418, 420, 425, 426; notice of, to clerk of the peace with regard to lunatic whose settlement cannot be ascertained, 423; orders of justices on overseers out of their jurisdiction, 426; to have access to pauper lunatics in cases of inquiries or appeals, 440; when to pay expenses of burial, discharge, or removal of pauper lunatics from asylum, 441; to send copy of order adjudicating settlement of pauper lunatic and grounds to parish affected, 432; appeal against order, 433, 434; payment of money by, without order of justices, 429; half-yearly statement as to lunatics in asylum to be sent to, 319, 499; entries to be made by, on visiting pauper lunatics in workhouse, 325, 501; to convey to county asylum, hospital, or licenced house, insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 583, 584; order on, for payment of cost of examination and maintenance, 584; appeal by, against order, 585; order on, for payment of charges for inquiring into insanity of criminal, for conveyance to asylum, and for maintenance, 573, 589, 590; of parish not in union, order empowering them to seize and sell property of criminal lunatic to defray expenses of maintenance, etc., 573, 590, 615; appeal by, against order adjudicating settlement of criminal lunatic, 573, 593, 616; payment by, for maintenance of insane prisoner, order of justices fixing weekly amount, 594.

Paragraphs, numbered, affidavits to be divided into, 120; masters' reports to be divided into, 131.

Parent, relief to, for lunatic child, would constitute the child a pauper, 387; but if granted for parent alone, or not for lunatic child, would not pauperise the child, 387.

Parish defined, 251, 448, 595; when to be annexed to county for purposes of Act, 447.

Parishes within immediate jurisdiction of commissioners in lunacy, 44, 45, 191.

Parliament, to be laid before, general orders of Lord Chancellor for altering course of proceeding prescribed by Acts, 26, 158; report of visitors of number of visits paid, patients seen, and miles travelled, 175; return of sums received by visitors for travelling expenses, or upon any other account, 175; annual account of secre-

Parliament—*continued.*
tary of commissioners, 202, 625; copies of reports and returns of commissioners, 233, 625; abstracts of accounts of asylums, 304, 382; rules for government and management of criminal lunatic asylum, 609; annual report of Commissioners in Lunacy on criminal lunatic asylums, 576, 609; votes of, to defray contingency expenses of commissioners in lunacy, 625, 629, 630.
Parliamentary grant, in aid of the cost of maintenance of pauper lunatics in county or borough asylums, registered hospitals, or licenced houses, 333, 563; application to Local Government Board by guardians for repayment, 562, 563; by counties, 563, 564; by boroughs, 564; claims of counties and boroughs to be examined and signed by district auditor, 563–565.
Parochial rates, assessment of land and buildings of asylums to, 360.
Partition of land, Lord Chancellor may order, 145.
Partnership may be dissolved if partner become lunatic, 144; disposal of partnership property, 145.
Party, interpretation of, 101.
Patient defined, 252.
Patients, on death of, visitors' reports to be destroyed, 137; number seen by visitors, half-yearly report to be made, 175; number for which house is intended, to be stated in notice of application for licence, 198, 200; transfer to new house, 206; entry to be made with regard to, in book of admissions, 210; form of disorder to be entered in book of admissions, 210; notice of admission to be sent to commissioners, or to clerk to visitors, 211; notice of escape, 211; of having been brought back, 212; death, discharge or removal of, from licenced house, 212; entry to be made of, 212; and notice to be sent to commissioners or to clerk to visitors, 212, 213; ill-treatment of, how punishable, 213, 214; when on release entitled to a copy of certificates and order, 214; prosecution for unlawful confinement, 214; particulars with regard to, to be entered in medical visitation book, 215, 216; in case book, 216, 217; to be seen by visiting commissioners in lunacy, 218; and by visitors, 219; inquiries with regard to, 220; list of, to be produced to visiting commissioners and visitors, 221; entries with regard to, to be made by commissioners and visitors in patients' book, 222; inspection of correspondence, etc., relating to, under 14 & 15 Vict. c. 99, s. 6, 221; how if state of mind is doubtful to visiting commissioners, 223; discharge of, 225, 226; how when dangerous and unfit to be at large, 226, 227; when detained without sufficient cause, in what cases commissioners may order discharge, 227, 228; discharge in such case by visitors, 227, 228; searches for, by clerk to visitors, 230; by secretary to commissioners, 231; visits of friends to, 232; may be taken to specified place for health, 232; number of, seen by commissioners, report to Lord Chancellor, 234, 625; annual report of commissioners on state and condition of, 233, 625; reception of single patient into unlicenced house, 234, 235, 270; removal of, by order of Lord Chancellor, 238; authority for detention of, 240, 241; retaking of, upon escape, 241; retained as boarders in licenced house after discharge as lunatics, in what cases and how, 269, 491; to be produced to commissioners and visitors at their

Patients—*continued.*
visits to house, 269; penalty for ill-treating, 271; recovery of, notices to be given in such case, 276; statement of death of, to be entered in case book, 276; transfer of, to other asylums, 277; visitation of, by order of commissioners, 281; diet of, in asylums to be determined by committee of visitors, 376; visitation of, by dissenting ministers, 378; discharge or removal of, from asylum by order of person who signed order for reception therein, 408; how if such person is dead or incapable of acting, 409; discharge or removal of, by commissioners, 505; how if lunatic is dangerous, 409; death of, notice and statement with regard to, 413; entries to be made with regard to death, discharge, or removal, 415; form, 466; registry of admissions, form of, 480; in hospital, temporary removal for benefit of health, 478; transfer of private patients to pauper list, 495; of pauper patients to private list, 495. See also Lunatics.
Patients' Book, keeping of, 222; inspection of, under 14 & 15 Vict. c. 99, s. 6, 222; entries to be made in, by visiting commissioners and visitors, 222; copies to be sent to commissioners, and to clerk of visitors, 222, 500; copy sent to clerk to be laid before justices, 223; penalty for omitting to transmit copies, 223; entries by visiting commissioners as to doubtful patients, 223; copy to be sent to clerk of visitors. 223; clerk to communicate same to visitors, 223; omission to send copy, or to communicate same, a misdemeanor, 223; notice of special visits of commissioners or visitors may be entered in, 229.
Pauper defined, 252, 449.
Paupers deemed to be lunatics, provisions for sending to asylums, 390.
Pauper idiots, provision for sending them to idiot asylums or to workhouses of other unions, 328.
Pauper lunatics, relief and treatment of, 293; legislation, 295; statutes relating to, 334.
Pauper lunatics in asylums, contract for reception of, into county asylums from boroughs, 340; visitation of, in such case, 341; employment of, 359; committee of visitors may contract for their reception into asylum when belonging to other counties or boroughs, 367, 484; payment of money under, 368; committee may require undertaking for payment of cost of maintenance, 369; rate of payment to be fixed by committee, 377, 419, 421, 484; to be seen and examined by not less than two visitors every two months at the least, 382; list of, in asylums to be made out half-yearly, 383; list of, chargeable to poor rates to be made out annually, 306, 329, 384, 455; visitation of, in asylums, 300, 321, 386, 552; quarterly visitation and lists of, when not in asylum, 305, 329, 386–389, 493, 543–549; when in workhouse, 388, 545; provision for sending them to asylums, 390, 491; when there is a deficiency of room, 312; wandering at large, 307, 310, 393; to what asylums order for admission shall extend, 399; forms of order and certificate for admission to asylum, 400, 457, 460; removal of, to or from asylum by relieving officer, how to be conducted, 550; by order of visitors, 403, 474; endorsement of order of removal in such case, 405; discharge of, from asylums, 405; removal of, in such case, 406; on undertaking that he will be no longer chargeable,

Pauper lunatics in asylums—*continued.*
407; detention of, in asylum, 411; removal to settlement parish or to Ireland or Scotland, instead of being sent to asylum, 312; conveyance to asylum, 312; in asylums, visitation of, 248; chargeability of, 418, 537; order of justices upon guardians for maintenance of, 418, 420; to what asylums order shall extend, 426; adjudication of settlement of, 419; how if it cannot be ascertained, 423; appeal against order, 434; re-imbursement of county after settlement has been ascertained, 425; cost of maintenance when irremovable to be borne by common fund of union, 426–429; access of guardians and others to, in cases of inquiries or appeals, 440; burial of, on death in asylum, 475, 476, 485; burial ground for, 477, 485; removal of chronic cases to workhouse, 328, 485, 513, 514, 553; detention of, in workhouses, 492; relative to be named in order for admission to asylum, 495, 551; discharge of, on trial, 315, 501; removal of, from asylums by order of commissioners, 408; transfer of, as private patients, 495; liability of relations to maintain, preserved, 333, 431; removal of, to asylum on order of commissioners, 498, 551; effect of order, 501, 551; half-yearly statement to be sent to guardians or overseers, 319, 499, 551; removal of, generally to asylum on order of commissioners, 310, 330, 498, 499, 551; effect of order, 499, 551; transmission to guardians of half-yearly statements as to, 499; in what cases chargeable to boroughs, 332, 506, 552.

Pauper lunatics in asylums, visitation of, by guardians, number of guardians who should go on such occasions, 301; by guardians, overseers and medical officers, consent of visiting justices, 386; grant from Parliament in aid of cost of maintenance, 332, 563; application by guardians to Local Government Board for repayment out of the grant, 563; by counties, 563, 564; by boroughs, 564; claims made by counties and boroughs to be examined and signed by district auditors, 563–565; clerk to visitors to furnish guardians or overseers with additional information as to, in order that annual return may be properly made, 553.

Pauper lunatics in licenced houses—reception of, into licenced house, 269, 320; form of order, 288; notice of recovery of, to be given to guardians, etc., 276; inquiries to be made by visitors and commissioners as to condition of, 220, 249; and as to dietary of, 220, 249, 321; regulation of dietary of, by visitors, 229, 321; by visiting commissioners, 230, 321; contracts for maintenance of, how affected, 230; mode of removal or discharge, 225, 322; grant from Parliament in aid of cost of maintenance, 332, 563; application by guardians, 563; by counties, 563, 564; by boroughs, 564; claims of counties and boroughs to be examined and signed by district auditors, 563–565.

Pauper lunatics in workhouses, 323–329; inquiries by commissioners as to, 280; number of, 519; detention of dangerous lunatics prohibited, 325, 518; detention of, 522, 550, 551; entry in in-door relief list, 520; quarterly lists as to, 305, 493, 510, 551; removal of, on order of commissioners, 310, 326, 498; entries to be made by visiting committee with regard to, 501, 552; arrangement for care of chronic cases in workhouses, 328, 485, 514; certificate of medical officer of the workhouse as to detention in of, 305, 561, 562; bathing of, regulations of lunacy commissioners, 559, 560.

Pauper lunatics sent to registered hospitals or licenced houses, from boroughs, part of cost of maintenance, to be paid by boroughs, and part by guardians, 533.
Pauper lunatics, recovery by guardians from annuities due to, of relief granted to such paupers, 532; who are members of friendly or benefit societies, recovery of cost of maintenance, 532, 533.
Pauper lunatics receiving out-relief, 329; living at home or boarded out, irregularities with regard to, 548, 549; imbecile, to be visited and included in quarterly list, 548.
Pauper lunatics brought before justices, expenses of examination, etc., 396, 397; having estate applicable to their maintenance, proceedings in such case, 333, 416, 525; liability of relations to maintain, preserved, 431; relief to married women whose husbands are in confinement, 525; married women, order of maintenance on husband, 529; period of residence in asylum to be deducted in computing term of residence necessary to confer irremovability, 527; removal of, to asylum not an interruption of residence, 527; effect of chargeability of, to common fund, 527; cost of maintenance, etc., in asylums, made chargeable to common fund in all cases, 537; orders of maintenance to be obtained by guardians, 537, 538. See also Lunatics. Patients.
Pauper lunatics sent to county asylum from a borough not contributing to it, 332, 557; sent from boroughs to registered hospitals or licenced houses, 332; what pauper lunatics should be sent to asylum, and who may be detained in workhouse, 304, 305.
Paymaster-General, substitution of, for Accountant-General, 134; and for Accountant-General of Court of Chancery, 177.
Payment of witnesses' expenses, 242; of person employed by commissioners to inquire into and report upon special cases, 281; of medical practitioner accompanying borough justices in visitation of borough lunatics in county asylums, 341; of expenses of repairs, etc., of pauper lunatic asylums, 363; of interest on mortgages, 373; for pauper lunatics in asylums, rate of, to be fixed by committee, 377; alteration of rate, 377; increase of, 377; of medical officer for visiting pauper lunatics not in asylums, 387; of expenses of conveying pauper lunatics to asylums, 397; of money by guardians or overseers without an order of justices, 331, 332, 429.
Payments made under Act to be binding, 154, 174.
Peckham, jurisdiction of commissioners in lunacy as to, 45, 191.
Pedigree, masters may dispense with proof of, 127.
Penal servitude, liability to, for rescuing or conniving at escape of criminal lunatic, 608; prisoners under sentence of, how to be dealt with on becoming insane, 612—614.
Penalties, clerk of the peace making default in respect of publication of list of visitors of houses licenced by justices, 194; and for not publishing name, etc., of clerk of visitors of houses licenced by justices, 195; on commissioners or visitors signing certificate for admission into licenced houses, 197; or professionally attending patients in licenced houses, 197; clerk of the peace omitting to send copy of licence to commissioners, 200; obtaining renewal of licence without making returns, 200; on superintendent not applying to have hospital registered, or omitting to have regulations sent to commis-

Penalties—*continued.*
sioners or hung up in hospital, 209; not entering patients in book of admissions, 210; or form of mental disorder, 211; omitting to give notice of escape or return of patient, 212; or to send statement of cause of death of patient, 213; omitting reports in medical visitation book, 216; omitting to keep case book or furnish copies of entries therein to commissioners, 217; not transmitting copies of entries in visitors', patients', and medical visitation books to commissioners or clerk to visitors, 223; preventing relations and friends visiting lunatics pursuant to order of commissioners or visitors, 232; witnesses not appearing when summoned, or refusing to be sworn or examined, 242; omitting to transmit notice of discharge of single patient, 277; physician, surgeon, or apothecary, signing certificate contrary to Act, 442; ill-treating lunatics in asylums, 443; allowing lunatics to escape, 443; for ill-treating lunatics in licenced house, 271; for signing medical certificate contrary to Act, 273; for not giving notice to commissioners of dismissal of nurse or attendant for misconduct, 279; obstructing execution of orders of Lord Chancellor, Secretary of State, or commissioners, 29, 283; clerk of the peace neglecting to send to commissioners copy of agreement for uniting, or refusing inspection thereof, 350; clerk to asylum not reporting dismissal of nurse or attendant to commissioners, 380; not transmitting to commissioners copy of annual report on asylum, 383; neglecting to make out or transmit annual list of pauper lunatics, 385; in respect of quarterly visitation, etc., of pauper lunatics not in asylums, 389, 543–545; on medical officers, relieving officers, overseers, and constables with respect to pauper lunatics not in asylums, 398, 544; relieving officer, overseers, and constables, neglecting to execute order for removal of lunatics to asylum, 307, 399; for not removing lunatic ordered to be discharged from asylum, 407; not transmitting to commissioners copy of order, etc., as to admission of lunatic into asylum, 412; medical officer omitting to make entries in medical journal and case book, 413; clerk of asylum not sending entries of visiting commissioner in books of asylum to commissioners, 413; medical officer omitting to make or sign statement, 412; omitting to make entry in medical journal and case book, 413; clerk and medical officer of asylum not signing notice and statement with regard to death of patient, 415; clerk of asylum omitting to make entries or send notice to commissioners with regard to discharge, removal, escape, or recapture of lunatics, 416; proprietor allowing physician, etc., to reside on premises when commissioners or justices have not signified approval of him, 490; for infringing terms of licence, 56, 491; proprietor of licenced house not transmitting copies of entries made by visiting commissioners or visitors in visitors' book, 500; conniving at escape of lunatic, 502; with respect to correspondence of patients, 504; person having charge of single patient neglecting to comply with regulations as to medical visitation book, 505; proceedings for recovery of, 243, 407; power of justices to reduce, 243; application of, 244; mitigation of, on appeal, 245; prosecution for, by order of commissioners, 246; application of, 247; under repealed Acts, recovery of, 247; application of, 247; recovery

Penalties—*continued.*
of, 444; to whom to be paid, 444; application of them, 444, 625; may be reduced on appeal to quarter sessions, 445; on person carelessly allowing escape of criminal lunatic, 608; on persons ill-treating lunatics in criminal lunatic asylums, 608; for abusing, ill-treating, or neglecting lunatic in unlicenced house, 29; for omission to send certificate of cause of death to registrar, 415; for disobedience to an order of Secretary of State, for removal to asylum of criminal lunatic, whose term of imprisonment expires before evidence of his sanity is given, 621.
Pensioners, Greenwich or Chelsea, becoming insane, 333, 531.
Pensions of lunatics applicable towards their support, 333.
Pensions to commissioners in lunacy, 186, 631; to their secretary, 189, 631; to officers and servants of asylums, 303.
Per centage, rate to be paid on estates of lunatics, 18, 108; masters to certify amount of income and per centage thereon, 19, 109; to be paid notwithstanding death, etc., of lunatic, 109; may be remitted or reduced by Lord Chancellor, 19, 109; recovery, 19, 109; Lord Chancellor may alter, 19; to be collected by means of stamps, 19; power to exempt small properties, 110; provisions respecting, to apply to proceedings under former Act and other cases, 111; payable under 3 & 4 Wm. iv. c. 36, how to be paid, 112; salaries payable thereout to so continue for a limited time, 112; where property exempted from, no inquiry as to next of kin, 126; rate to be paid on estates of lunatics, and on proceedings in the Courts, fixing of by Lord Chancellor, 19, 180.
Period, for what, licences to endure, 201.
Permanent chairman of commissioners in lunacy, 187, 526; his casting vote, 188.
Person, interpretation of, 101.
Person of lunatic, protection of, 239.
Persons who are not lunatics not to be boarded or lodged in licenced houses, 265.
Petition for inquiry, notice of presentation to be given to alleged lunatic, 20, 113; report of commissioners in lunacy to be taken as, in certain cases, 22, 118; not to be of unnecessary length, 130; for confirmation of report, proceedings in opposition to, 132; report not objected to may be confirmed without, 132; cases in which petition necessary for confirmation of report, 132; cases in which reports shall be brought before Lord Chancellor for confirmation by petition, 133; to be filed before an order shall be passed, 133; costs of, may be paid out of lunatic's estate, 154; for traverse of inquisition, time for presentation limited, 24, 155; not presented, or proceedings neglected, right to traverse barred, 155; Lord Chancellor and masters may make orders for custody of the person and management of estate notwithstanding petition for traverse, 25, 156; Lord Chancellor may order new trial, or new inquiry, on presentation of, 168; sections 148, 149, and 150 of 16 & 17 Vict. c. 70, relating to, not to apply to such a case, 169; section 151 of said Act to apply, 169; on hearing of, for inquiry, alleged lunatic may demand a jury, 169; to Lord Chancellor by alleged lunatic for inquiry by jury, 169; for withdrawal of notice

Petition—*continued.*
previously filed for demand of jury, 169; costs of, Lord Chancellor may order payment, 25, 170.
Physician of asylum, appointment of visiting, 303, 379; to be registered under Medical Act, 379.
Physicians, appointment of, as medical visitors of lunatics, 17, 105; as substitutes for medical visitors of lunatics, 107; as commissioners in lunacy, 184, 186, 624; as visitors of houses licenced by justices, 193; remuneration of, 194; definition of, 283, 450, 507; when to be approved of by commissioners or justices, 490; certificate of, for admission of private patient into asylum, 265–267; of pauper lunatic, 270, 400; how to be filled up, 547; to state facts upon which opinion of insanity has been formed, 271, 402; when not to sign certificate, 272, 402; when not to receive boarder in unlicenced house, 272; penalty for signing certificate contrary to Act, 272; may accompany borough justices in visitation of borough lunatics in county asylum, 341; their remuneration in such case, 341; when appointed for that purpose by guardians, to visit pauper lunatics in asylum, 385, 552; remuneration of, for visiting pauper patients in asylum, 386; for examining pauper lunatic, 397; signing certificate contrary to Act, penalty, 442; false certificate a misdemeanor, 443; when not to sign certificate for admission to licenced house or hospital, 196; nor to attend patient, 197; penalty, 197; when to be resident superintendent of registered hospital, 209; and of licenced house, 214; holding degree of University of London, 468; indemnity for acting in lunacy cases, 469; may be called in to assist justices in examination of persons in custody or apprehended under circumstances denoting derangement of mind and a purpose of committing an indictable offence, 583; certificates of, on removal of insane prisoners from Queen's Prison to Bethlehem Hospital, 611; from Milbank Prison, 596; as to lunatic prisoner for debt, 611; as to criminal prisoner becoming insane, 613; as to sanity of criminal prisoners who were removed to asylum, 614; as to insanity of naval prisoner, 617; as to sanity of naval prisoner, 617; appointment of, by Secretary of State to inquire into sanity of prisoner sentenced to death, 613; certificate of, 614. See also Medical Attendant.
Places within immediate jurisdiction of commissioners in lunacy, 44, 45, 191.
Plaintiff—see Actions.
Plaistow, jurisdiction of commissioners in lunacy as to, 45, 191.
Plan of house intended to be licenced to be deposited, 47, 198; of alterations and additions to licenced house, 199; depositing, when wilfully incorrect, a misdemeanor, 199; to be given on changing house to which licence refers, 206; copy of to be hung up in licenced house, 222; of houses intended to be included in one licence, 264; of houses intended to be licenced to be sent to commissioners, 53, 489; of additions to or alterations of licenced house to be sent to commissioners, 54, 489; visitors of asylums not to receive emolument for, 370; of pauper lunatic asylums, to be submitted to commissioners, 370, 484; with an estimate of cost, 484; and approved by Secretary of State, 370; visitors' report to

Plan—*continued.*
quarter sessions as to, 358; how if sessions disapprove of them, 483; to be submitted by commissioners to Secretary of State, 370; and to be approved by him, 370.
Plea in actions, etc., against proprietor or superintendent of licenced house or hospital, 241; not necessary to aver that person is a lunatic, 241; order and certificates sufficient justification for detaining wife from her husband, 241; not bad for not admitting or denying that lunatic was wife of plaintiff, 241; evidence in support of, 246.
Police, notices to be sent to, by master of workhouse, 393.
Police magistrates in the metropolis, suggested alteration in mode of examination by, of pauper lunatics prior to order for removal to asylum, 555, 556.
Police stations, rateability of, 360.
Poor Law Board, order of, relating to insane persons wandering abroad and admitted into workhouse, 393; report of commissioners in lunacy to, as to pauper lunatics in workhouses, 280, 323; copy of annual list of pauper lunatics to be sent to, 385, 545; approval of president of, to arrangements for care of chronic lunatics in workhouses, 328, 485, 553; may extend time for payment of debts, 535; establishment of Local Government Board in lieu of, 385; consent of, to guardians sending idiotic paupers to idiot asylums, or to workhouses of other unions, 523; consent of, to guardians receiving chronic lunatics in workhouses, 524, 558. See also Reports of Poor Law Board. Circulars.
Post, notices, etc., duly posted, no prosecution if not delivered, 248.
Post mortem examination, consent of relatives to, 463; defective certificate, proceedings against superintendent, 317.
Powers vested in lunatic for his own benefit, may be exercised by committee of estate, 151; vested in lunatic as trustee or guardian, may be exercised by committee of estate, 151.
Powers of commissioners, 625; of guardian of lunatic, 239; of masters in lunacy, 240; of commissioner or visitor visiting licenced house alone, 497; asylums, hospitals, or gaols, 497; of commissioners and visitors, when applicable to licenced houses after licence has expired, 475; of committee of visitors, enlargement of, by justices, 345, 346; in respect of continuing in office, 354; of councils of boroughs under Acts, 473.
Powers of Lords Justices of Court of Appeal in Chancery under Lunacy Regulation Act or other Acts relating to lunatics, 100.
Precedence of masters in lunacy, 102, 184.
Precept to sheriff for jury, issue of, by masters in lunacy, 21, 114.
Premises, residence on, required from persons licenced, 46, 265; further provisions as to, 489.
Premiums received by committee on granting or renewing lease, how to be applied, 149, 150.
President of Poor Law, now Local Government Board, his approval of arrangements for care of chronic lunatics in workhouses, 328, 485, 553.
Preventing relations or friends visiting lunatics in licenced house or hospital, penalty, 232.
Priority of mortgages, 374.

Prison, in connexion with Bethlehem Hospital, for reception of criminal lunatics, 571, 575.
Prisons. See Queen's Prison. Milbank Prison. Visiting Justices. Convict Prisons.
Prisoners. See Criminal Lunatics. Insane Prisoners. Lunatic Prisoners for Debt.
Private committee of commissioners, inspection by, of private register of persons in unlicenced houses, 237; to visit such houses and report, 237; powers of committee vested in and made applicable to commissioners, 36, 280.
Private lunatics, how to be dealt with, 3; lunatics and idiots distinguished, 4; importance of distinction in early state of the law, 7; custody and estates of, vested in the King, 7, 10, 95, 96; lunatics defined, 4, 15; lunatics taken care of by relatives, 3, 28; supervision if kept in unlicenced house, 28; or confined in asylum, 28; lunatics living with relatives in private dwelling-houses, 28; if profit be not made, no general legal supervision, 29; but Lord Chancellor or Home Secretary may direct visitation, 29; penalty for obstructing execution of orders, 29; lunatics boarded in unlicenced houses, 29; legal provisions, 29; house not required to be licenced, 29; but under superintendence of commissioners in lunacy, 29; illegal restraint, 88-91; visitation and examination of, by order of Lord Chancellor or Secretary of State, 249; reception of, into unlicenced house, 209; of single patient, 234-237; examination of, by order of Lord Chancellor, 239; who meant by, 252; wandering at large or not under proper care, 80-82, 393.
Private lunatics (Chancery), statutes relating to, 93; cognizance of Court of Chancery in certain cases, 3; interpretation of term "lunatic," 15, 101; person and estate of, all inquiries connected with, to be referred to masters in lunacy, 17, 102; within jurisdiction, to have notice of petition for inquiry, 20, 113; and may demand such inquiry before a jury, 113; notice, when not within jurisdiction, 20, 115; not so found by inquisition, to have notice of report, in case of inquiry on report of commissioners, 22, 118; if grant of custody be not under great seal, order of Lord Chancellor to have the same effect, 122; residing out of jurisdiction, masters may inquire respecting his interest in stock, etc., 129; not to forfeit land for nonpayment of illegal fine, 139; special report to be made by visitor when unable to discover the residence of lunatic, or otherwise prevented from seeing him, 23, 136; powers vested in lunatic for his own benefit may be exercised by committee of estate, 151; powers vested in lunatic as trustee or guardian may be exercised by committee of estate, 151; committee of estate becoming insane, stock belonging to lunatic may be transferred, 152; limit of inquiry under commission of lunacy, 22, 167; when to be examined, 21, 168; examination to take place either in open court or in private, as judge may direct, 21, 168; when and how he may demand inquiry by jury, 169; withdrawal of notice previously filed for demand of jury, 169; order for application of property when of limited value for their maintenance or carrying on trade or business, 171; notice to be given of application for such order, 171; power to sell or mortgage and apply proceeds

Private lunatics (Chancery)—*continued.*
to maintenance of lunatics and their families, 172; orders of Court of Chancery for maintenance of, 171; visitors to visit and make such inquiries as Lord Chancellor may direct, 23, 175; to be visited four times a year, 23, 175; in licenced houses, asylums, or registered hospitals need not be visited more than once a year unless otherwise directed by Lord Chancellor, 23, 175; visitors to make such inquiries and reports as Lord Chancellor may direct, 175; powers of commissioners or visitors to order discharge, not to extend to, 229; order for reception into unlicenced house, 234; fortnightly visitation dispensed with in the case of single patients in unlicenced houses, 235; protection of property of, 238, 261, 262; examination of, by masters in lunacy, 239; appointment of guardian by Lord Chancellor, 239; application of income of estate towards maintenance, 239; under care of committee, visitation of, by order of Lord Chancellor, 29, 249; order for taxation and payment of costs after death of lunatic, 165; found by inquisition, reception of, into asylum, 493; on order of committee, 68. See also Commission of Lunacy. Inquisition. Estates of Lunatics. Lord Chancellor.

Private lunatics (under certificates), statutes relating to, 181; private patients defined, 252; lunatic defined, 251, 449; examination by masters in lunacy of person detained as a lunatic, 239; protection of person of, 239; management of estate of, 239; commission in respect of, 239; person ordering confinement of, not protected, 241; more than one not to be received into unlicenced house, 209; in licenced houses and hospitals, 37; order for admission, its requisites, 67, 68, 265, 286; discharge of, from licenced house and hospital, 225, 226; entries in case book relating to, to be transmitted to commissioners when required, 217; letters written by private patients, 232, 565, 566; statement of property of, when to be made to Lord Chancellor, 278; in county or borough asylum, when they may be admitted, 78, 79, 369; what medical practitioners are not to sign certificate, 494; committee of visitors may require undertaking to pay cost of maintenance, etc., 369; accommodation to be afforded to, 369; half-yearly list of, in asylum, to be sent to commissioners, 384, 455; certificate of clerk of asylum as to number of each sex in asylum, 384; order and certificate for admission of, into asylum, 401, 459, 460; discharge or removal of, from asylum by order of person who signed order for reception of patient therein, 408; how if such person is dead or incapable of acting, 409; transfer of, 409; how long order for admission of, into asylum shall remain in force, 494; relative to be named in order for admission to asylum, 495; transfer of, as pauper patients, 495; correspondence of, 502–504; removal of, by commissioners, 505; lunatics not under proper care or control, or cruelly treated or neglected, how to be dealt with, 81, 395; prosecutions, 81–87; when friends or relatives are not to be restrained from taking care of, 82, 83, 396. See also Lunatics. Patients. Single Patients.

Private register to be kept by secretary of commissioners in respect of single patients in unlicenced houses, 36, 237; custody of, 237; inspection of, by private committee or by order of Lord Chancellor, 237; entry of reports in, 36, 237.

Privy Council may order persons, apparently insane, who endeavour to gain admittance to the King, to be kept in custody, 581, 582.
Procedure before Lord Chancellor, and masters in lunacy, 240.
Proceedings before masters, may be consolidated in cases of members of the same family, 129; times, etc., of, masters may direct, 130; after inquisition, present provisions with respect to, to what applicable, 136; prescribed by Act, power of Lord Chancellor to alter, 26, 158; for offences against Act, 242, 243, 246.
Proceedings of managers of Metropolitan Asylum District, Lunacy Commissioners may appoint a person to take part in, 540.
Proctor, B. W., appointment of, as commissioner in lunacy, 184.
Prodigals, provisions of the Roman law as to, 5.
Production of books and documents, to visiting commissioners and visitors, 221; to masters in lunacy, 240.
Professions, visitors of lunatics not to practise, 176.
Profits of idiot's estate, sharing of, with Crown by a person entrusted with care of the person and estate of the idiot, 10.
Prohibition of renewal of licence, 51, 55, 207, 208; of reception of two or more lunatics in unlicenced house, 209.
Proof of orders, etc., of commissioners in lunacy, 187; of transmission or sending copies, etc., 248; of validity of acts of justices not to be required from persons lending money on mortgage of rates, 375.
Property, unprotected, of alleged lunatic, 22, 27; commissioners in lunacy may report to Lord Chancellor, 22, 27, 118; report to be taken as a petition for inquiry, 22, 27, 118; notice to alleged lunatic, 22, 118; case to proceed like an ordinary petition, 22, 27, 118.
Property of lunatic, when exempted from payment of fees and per centage, no inquiry to be made as to next of kin, 126; when small, Lord Chancellor may dispense with inquiry as to next of kin, 126; when small, masters may report as to inexpediency of inquiry as to next of kin, 127; may be sold or mortgaged for payment of debts, maintenance, etc., 140; where very small, may be applied directly for his maintenance, 142; Lord Chancellor may apply cash for temporary maintenance of temporary lunatic and his family, 143; committee of estate may dispose of property of dissolved partnership, 144; not to be subjected by Act to debts further than the same is now subject thereto, 154; re-imbursement of cost of maintenance from, sec. 104 of the 16 & 17 Vict. c. 97, only applies during the lunatic's lifetime, 431; claim of guardians upon, for past maintenance in workhouse, 431; of pauper, guardians may re-imburse themselves for past maintenance from, 528; of deceased pauper, guardians may recover cost of burial from, 528.
Property of lunatic not so found by inquisition, when of limited value Lord Chancellor may make order for its application, 27, 37, 171, 172, 333; notice to be given to lunatic of such order, 171; Lord Chancellor may order land, stock, or other property to be sold, mortgaged, or otherwise disposed of, 27, 172; application of proceeds to maintenance of lunatic or of his family, 28, 172, 575; power of Court of Chancery in its ordinary jurisdiction, 171; Lord Chancellor may make general orders as to, 28, 172. See also Estate of lunatic.
Property of person acquitted on the ground of insanity, power to apply,

Property—*continued.*
for his maintenance or of his family, or for carrying on his trade or business, 27, 173, 575.
Property of lunatic, protection of, 238; how it may be made applicable to his maintenance, 333, 416, 430, 525.
Property of lunatics, Lord Chancellor, on representation of commissioners, may require statement as to, 278.
Property of criminal lunatic, order of justices to seize and sell to defray charges, 575, 590, 615, 616.
Property of lunatics removed from India, 599.
Property of dissolved unions how to be divided, 364; by visitors, with approval of Secretary of State, 364.
Proportion of visitors to be appointed for counties and boroughs united, alteration of, 349; of expenses of counties and boroughs uniting, how to be calculated, 347, 470; alteration of, 348, 471.
Proposals, as to managing, etc., the estate, or not, and relating to the person, masters may receive, 124; masters to certify as to propriety of, 125; persons objecting to reception of, by masters, to apply to Lord Chancellor, 125; person insisting on report of masters liable to costs, 125, 126; masters may report specially upon, pending inquiry, 131.
Proprietor defined, 252.
Proprietor of licenced house, liability on receiving patient with invalid certificate, 72, 73; entry to be made on reception of patient by, 210; for default or false entry how punishable, 210; to send to commissioners or clerk to visitors notice of admission of patient, 211; not doing so, a misdemeanor, 211; notice of escape to be given by, 211, 212; notice of return to be given by, 212; to make entry and give notice on death, removal, or discharge of patient, 212; penalty for omission, 213; to certify copy of statement of death of patient, 213; to transmit same, 213; penalty for omission, 213; obligation of, on visits by visiting commissioners, 58, 61; on visits by visitors, 60; to show every part of premises and every patient to commissioners and visitors, 220; concealment or refusal, a misdemeanor 220; indicted for false entries in medical visitation book, 220; refusal of, to answer inquiries of visiting commissioners and visitors, a misdemeanor, 221; production of lists, books, licence, etc., by, 56, 221; to transmit copies of all entries made in books by visiting commissioners and visitors to commissioners and clerk of visitors, 222; penalty for omission, 223; to transmit to clerk of visitors copy of minute made by visiting commissioners as to doubtful patients, 223; omission to do so, a misdemeanor, 223; notice of special visits to be given to, 229; to transmit copy of notice, 229; penalty for refusing admission of friends of patients, 232; when to take patient to places for benefit of health, 232; authority of, for taking and detaining patients, 240, 241; plea of justification to actions or indictments against, 241; residence of, 46, 265, 490; may in certain cases board a discharged patient, or any relative or friend of such patient, 269; not to sign certificate for reception of patient, 272; to give notice of recovery of patient, 276; of dismissal of nurse

Proprietor of licenced house—*continued.*
or attendant for misconduct, 279; penalty for neglect, 280; penalty for allowing physician, etc., to reside on premises in certain cases, 490; extension of powers to take boarders, 491; after visits of commissioners to transmit to commissioners copies of entries made by them in visitors' book, 500; penalty for non-transmission of entries, 500; penalty for detaining letters of patients, 504. See also Superintendent of licenced house.
Prosecution for signing medical certificate without examining patient, 70; for manslaughter, 75, 214, 315; for murder, 84; for making false entries in medical visitation book, 74; for ill-treatment and neglect of lunatics, 82–87; by Attorney-general by direction of Home Secretary, for unlawful confinement of persons as insane, 214; for neglect or ill-treatment of patients, 214; persons not liable to be prosecuted if notices, etc., are proved to have been duly posted or left at the proper office, 248; by secretary of commissioners in lunacy, 444; by clerk to committee of visitors, 444; of officers or servants of asylum, 444; abatement of, 444; of offenders by secretary of commissioners in lunacy, 246; by clerk to visitors, 246; by order of commissioners or visitors, 246; with consent of Attorney or Solicitor-general, 247; of offenders against repealed Acts, 242, 265, 336; of a person for wilful neglect of his brother, 86; of a son for ill-treatment and neglect of his mother, 87.
Protection of property of lunatics by commissioners, 238.
Public institution, as used in the Registration Act, 1874, includes a lunatic asylum, 414; and is included in the word house, 414; chief officer of, included in the term occupier, 414.
Public Works Loan Commissioners, advancement of money by, for purposes of Act, 373.
Publication of list of visitors of houses licenced by justices, 194; of name, etc., of their clerk, 195; of notice of revocation of licence, 51, 55, 207; of prohibition of renewal of licence, 51, 55, 207, 208.
Punishment for rescuing or permitting escape of criminal lunatic, 576.
Punishment of offenders, 243, 244.
Purchase of land for site of pauper lunatic asylum, 357; in consideration of rent reserved, 359; under Lands Clauses Consolidation Act, 361; release from contract for, 366; contracts for, to be submitted to commissioners, 370.
Purchase of land for lunatic asylums, conveyance to clerk of the peace for county, 361, 517.
Purchase of land for burial ground, 485.
Purchase money of land or buildings sold by committee of visitors, application of, 366.
Putney, jurisdiction of commissioners in lunacy as to, 45, 191.
Qualification required for office of commissioners in lunacy, 184, 285, 624; for office of chaplain to asylum, 378.
Quarter Sessions, when to be held, 193; justices at, to licence houses, 193; course of proceeding, 52; to appoint visitors, 193; to supply vacant office of visitor, 193; to direct payment of medical visitor, 194; to appoint clerk to visitors, 195; to fix his salary, 195; to direct time and place for meetings of visitors, 195; not to act in

Quarter Sessions—*continued.*
granting licence if interested in licenced house, 196; penalty for so doing, 197; notice, plan and statement, on applying for licence, to be laid before, 53, 198, 199; may allow plans delivered before Act, 199; copy of licences granted by, to be sent to commissioners, 200; how and for what period to grant licences, 201; justices at, in boroughs, not to grant licence or appoint visitors or clerk without consent of recorder, 201; may reduce charge for licence, when, 202; annual account of clerk of the peace to be laid before, 203; to direct disposal of any balance, 204; may order payment of expenses out of county or borough rate, 204; may make advances for purposes of Act, 204; may recommend revocation of licences, 207; may direct when houses licenced by them shall be visited by visitors, 219; appeal to, against order or determination of justices, 245; mitigation of penalty by, 245; may order return of money levied for penalties, and award damages, 245; may give costs, 245; decision of, to be final, 245; special sessions to be holden in boroughs for doing acts required to be done by, 253.

Quarter Sessions, proceedings of justices at, with respect to providing asylum, 337; report of borough justices as to visitation of borough lunatics in county asylum, to be entered among records of the court, 341; justices at, may enlarge powers of committee of visitors, 345; appointment of new committee of visitors at, 345; visitors not to be subject to control of, further than is provided for by Act, 347; agreement for uniting when entered into and signed to be reported to, 349; and entered among records, 349; appointment by recorder of two members of committee, 480.

Quarter Sessions, plans, etc., of new asylums for pauper lunatics to be reported to, before being carried into effect, 358; how, if sessions disapprove of them, 483; when cost incurred in repairs, etc., to pauper lunatic asylum is to be reported to, 363; when justices in, are to make a rate for purposes of Act, 447.

Quarter Sessions, appeal to, by persons aggrieved by refusal of an order by justices, 432; against order adjudicating settlement of pauper lunatic, 434; against orders of justices other than orders as to settlement of lunatic paupers and their maintenance, 445; may reduce penalties on appeal, 445; statement to be submitted to, as to building and repairing fund, 484; sanction of, as to burial grounds, 486; sanction of hire of buildings or land for term of years, 487; confirmation of superannuation allowances by, 488; duty of, as to report of commissioners on house for which licence is applied, 53, 489; hearing of appeal against order of adjudication of settlement of insane person or dangerous idiot charged with offence, 585; appeal against order of justices in the case of insane prisoners, 592; may award costs, 592; determination to be final, 592. See also Justices. Special Sessions.

Quarterly meetings of commissioners in lunacy for granting licences, 191; adjournment of, 192.

Quarterly visitation of pauper lunatics not in asylum, 305, 386–389, 543–549, 551; imbeciles to be visited, 548; means taken by commissioners for promoting due visitation, 548, 549; list of paupers visited, 305, 324, 389; amendment of form of list of paupers visited, 493, 510.

Queen, the—see the King.
Queen's printers' copy of Act to be bound up in visitors' book, 222, 284.
Queen's Prison, removal from, of insane prisoners to Bethlehem Hospital, 611; re-delivery on becoming of sound mind, 611.
Questions to be answered by proprietors or superintendents, 221.
Questions, how to be decided at meetings of commissioners in lunacy, 188; at meetings of committee of visitors, 353.
Rank of masters in lunacy, 102, 184.
Rate of payment for pauper lunatics in asylum, 377, 419, 421.
Rate in towns, etc., not part of a borough annexed to county for purposes of Act, how to be made and levied, 447.
Rateability of asylums, 260, 359; of police stations of county constabulary, 360; of workhouses, 360; of chaplain's residence in asylum, 378.
Ratepayers not to question validity of mortgage, 375.
Rates out of which costs and expenses of asylum are to be paid, 371; mortgage of, 372; validity of, not to be questioned, 375.
Rates—See Borough Rate. County Rate.
Reasons of medical attendant against discharge of patient by commissioners or visitors, statement of, 228.
Recapture of escaped patient, 76, 321; certificate to remain in force, 233; notice and statement as to, 235; notice of, to be given to commissioners, 76, 315, 416; not returning after absence on trial, 315, 502, 552, 606.
Receipt for payment of monies for temporary maintenance of temporary lunatic, 144.
Receipts of overseer, relieving officer, etc., 417, 431.
Receiver of lunatic's estate, appointment of, 239; powers and authorities of, 239; continuation of duties of, 239; power to receive dividends on Government or Bank stock, or annuities standing in lunatic's name, 262; may, under order, make repairs and improvements, and execute contracts, agreements, and leases, 262.
Reception into unlicenced house of lunatic on order of committee, 30; of lunatics into unlicenced house, 209; of single patient, 234, 235, 236, 237; of pauper lunatic into asylum, 312; when there is a deficiency of room, 312; order for, 391, 400; form of it, 400, 457; of private patient, 369, 401; form of it, 459; of private patients into licenced house, 265, 268; into asylum, 401; of pauper lunatics, 269, 320; into asylum of persons found lunatic by inquisition, 493; of private patients, how long order for, is to remain in force, 494; into asylum of criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620; application of provisions in sec. 6 of the 30 & 31 Vict. c. 12, to criminal lunatics whose term of imprisonment expired before passing of that Act, 622, 623. See also Admission.
Recognizances, masters may take, 119; for appearance on return to distress warrant, 243; on an appeal, 245; on appeals to quarter sessions, 445; of friend or relative of insane person or dangerous idiot, 585.
Recommendation to revoke licences, by whom to be given, 207, 208; notice previous to transmission of, 207, 208.
Recorder, consent of, not required to remuneration of visitors, 194, 195; on transfer of licence, 205; on change of licenced house, 206;

Recorder—*continued.*
consent of, to grant of licence, 52, 55, 201; or appointment of visitor or clerk, 193; notice to be given by, with respect to provision of borough asylum, 337; when to appoint justices to be members of committee of visitors of county asylum, 343, 480; appointment of new committee by, 345.
Recorder, county of a city or town not having, to be treated as a county for purposes of Lunacy Acts, 515.
Recovery of cost of maintenance of pauper from annuity due to him, 532; payment to guardians to be a legal discharge to trustee or other person making the same, 532; of cost of maintenance of members of benefit societies who become insane, 333, 532, 533.
Recovery of patients, 77, 276, 323; notices to be given, 77, 276, 323.
Recovery of per centages on administration of estates of lunatics under authority of Lord Chancellor, 19, 109; of penalties, 243, 244, 246, 247, 407, 444; of expenses of repairs, etc., of pauper lunatic asylum from treasurer of county or borough, 363; of expenses to be defrayed out of county or borough rates, 371; of money ordered to be paid by an order of justices, 442; of debts due from guardians of the poor, 535, 536; limitation of time, 535, 536.
Reduction of payment for licences, 202; of penalties, 243, 445.
Reference made to a commission in other Acts of Parliament, etc., to what to apply, 117, 168.
Reference to masters in lunacy to inquire as to person and estate of lunatic, 240.
Refusal of an order of justices, appeal in such case, 432.
Refusing to permit relations or friends to visit patient in licenced house or hospital, penalty, 232.
Register Book of lunatic hospitals, 209.
Register of Admissions. See Registry of Admissions.
Register of discharges, removals, and deaths to be kept, 212, 415; entries to be made in, 212, 317, 323, 415; inspection of book under 14 & 15 Vict. c. 99, s. 6, 112; form of book, 258, 466.
Register of Patients, entries to be made in, 411, 415.
Registered hospital defined, 482; regulations for government of, 43, 63, 208, 281; number, origin, and constitution of, 39; for lunatics who are not paupers, 39; when pauper lunatics should be sent to, 304, 305; pauper lunatics sent to, from boroughs, 332, 533; part of cost of maintenance to be paid by borough and part by guardians, 533; pauper lunatics in, grant from Parliament in aid of cost of maintenance, 332, 563; application by guardians to Local Government Board, for repayment from grant, 563; by counties, 563, 564; by boroughs, 564. See also Hospitals.
Registering hospitals for reception of lunatics, 40, 43, 209. See also Hospitals.
Registrar in lunacy, interpretation of, 100; change of name from secretary to registrar, 104; to perform his duties under direction of Lord Chancellor, 103; to discharge duties formerly belonging to the office of clerk of the custodies of infants and lunatics, 104; his salary, 17, 104; officers, etc., of, appointment and salary of, 17, 105; to be paid travelling and other expenses, 108; notice demanding jury to be filed with, 113; masters' reports to be filed with,

Registrar in lunacy—*continued.*
131; to communicate orders in lunacy to the masters, 133; to enter orders in lunacy, and furnish copies, 134; to certify to Accountant-general as to money orders, 134; forging his seal or signature, felony, 135; demand for jury without notice filed with, 169; notice of demand for jury filed with registrar, withdrawal of, 169; to hold office during good behaviour, 17, 177; removable by Lord Chancellor, 17, 177; seal of, to office copies of orders in lunacy, 178; by direction of Lord Chancellor, may require statement as to property and income of lunatic, 278.
Registrar of deaths, statement with regard to death of patient to be sent to, 213; notice of death of patient in asylum to be sent to, 317, 413; fees to, how to be charged, 415; duty of relative or friend to send certificate of death to, 415; penalty for neglect, 415; duty of relative or friend to give information concerning death to, 514; but information need not be given at once, if a notice and medical certificate be sent to, 414; duty of to register death without fee, except when he has to register the death at the house of the deceased person, 414.
Registration of death by registrar without fee or reward, except when he has to register the death at the house of the deceased, 414; of death of person upon whose body an inquest has been held, 505, 506; of deaths occurring in asylum, 414.
Registration of deaths, 413, 414, 415; duty of coroner, 441; fees for, how to be charged, 415.
Registration of hospitals, 40, 43, 209.
Registration of physician, surgeon, or apothecary, 507; of medical officer of lunatic asylum, 379.
Registration of reasons of medical attendant against discharge of patient by commissioners or visitors, 228.
Registry of Admissions, entries to be made in, 73, 210; inspection of, under 14 & 15 Vict. c. 99, s. 6, 256, 464, 465.
Regulations as to execution of Act, commissioners to make, 224, 625; as to dietary for pauper patients, 229; as to government of registered hospitals, 43, 63, 208, 281; of licenced houses, 64, 282. See also Rules.
Regulation and management of asylums and appointment of officers, 375.
Re-imbursement of county for maintenance of lunatic after settlement has been ascertained, 425.
Re-imbursement of guardians for cost of past maintenance of pauper, out of his property, 528.
Relative, construction of the word, 86.
Relative, grant to by King, of wardship of idiot and of his estate, 11; duty of, to give information to registrar of occurrence of a death, when he has knowledge of the fact, 414; the information need not be given at once if a notice and medical certificate be sent to registrar, 414; undertaking by, to provide for maintenance of lunatic sent from workhouse to asylum, 521.
Relatives, lunatics taken care of by, 3, 28; supervision if kept in unlicenced house, 28; or confined in asylum, 28; lunatics living with, in private houses, 28; if profit be not made no general

Relatives—*continued.*
legal supervision, 28; but Lord Chancellor or Home Secretary may order visitation, 29; penalty for obstructing execution of orders, 29; of lunatic not so found by inquisition, payment to, of proceeds arising from property for benefit of lunatic, 172; visits of, to patients in licenced house or hospital, 232; liability of, to maintain lunatics preserved, 330, 333, 431; of lunatics in licenced houses, in what cases they may be allowed to board in house, 269; to be produced to commissioners and visitors at their visits to house, 269; may order discharge of single patient in unlicenced house, 37, 275; when not, 275; consent of, to post mortem examination, 463; of lunatic when not to be restrained from taking care of, 82, 396; discharge from asylum of pauper lunatic on undertaking from, 317, 407; of patient to be named in order of admission to asylum, 495, 551; notice of death of lunatic to be given to, 317, 495, 551; prosecutions for ill-treatment and neglect of lunatics, 82–87; pauper lunatics under care of, 329; of insane Chelsea and Greenwich pensioners, payment of pensions, 531; not restrained from taking care of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 584, 585. See also Friends.

Release from asylum, etc., when a copy of certificate and order to be furnished to patient, 214.

Release of committee of visitors from contract for purchase of lands, 366.

Relief of married women whose husbands are confined as lunatics, 525.

Relief granted to a parent for lunatic child would pauperise the child, 387; but if granted for parent alone or not for lunatic child, would not make the child a pauper, 387; now chargeable to common fund in unions, 329, 331, 381, 428, 539.

Relieving Officer, actions against, for illegal confinement, 90–92; when notice to be given to, of intended application to transfer patients to new house, 207; defined, 449; order of, for reception of lunatic pauper into licenced house, 270; not to pay fees for quarterly visitation of pauper lunatics, 388; notice to be given to, by medical officer, of pauper lunatic being a proper person to be sent to an asylum, 307, 390, 543, 544, 551; duty of, in such case, 307, 390, 391, 491; duty of, with regard to wandering lunatics, 81, 393; as to lunatics not under proper care or control, 394; or cruelly treated or neglected, 394; expenses incurred by, in bringing lunatic before justices, 397, 398; penalty for neglect of duty, 307, 398; neglecting to execute order of removal to asylum, 399; on order of justices, to remove pauper lunatic to or from asylum, 403; use of vehicle, 549; how when lunatic is discharged by order of visitors, 316, 407; penalty for neglect to remove, 407; notice of death of lunatic in asylum to be sent to, 317, 414; how when lunatic has property applicable to his maintenance, 417, 430; his receipt to Bank of England for dividends, 417; notice of, to clerk of the peace with regard to lunatic whose settlement cannot be ascertained, 423; to have access to pauper lunatics in cases of inquiries or appeals, 440.

Religious observances of patients, 75; attendance of criminal lunatics on religious services, 605.
Remarks of visitors to be entered in visitors' book at asylum, 382.
Remedies, description of, to be entered in case book, 216.
Removal of clerk to committee of visitors from office, 354; of masters in lunacy, power of Lord Chancellor, 104; of medical visitors and legal visitors, power of Lord Chancellor, 176; of registrar in lunacy, power of Lord Chancellor, 177; of secretary to commissioners in lunacy, 188; of members of council of supervision of criminal lunatic asylum, 604; of officers of criminal lunatic asylum, 604; of superintendent and other officers of asylum, 303, 379; of superintendent of licenced house, 199.
Removal of criminal lunatics by direction of Secretary of State, 285, 576; of patients from one licenced house to another, when allowed, 205, 206; notice of, to whom and when to be given, 206; of lunatics from one asylum, etc., to another, 76, 277, 316, 321, 410; of lunatic from asylum, undertaking for payment of expenses of, 369; of lunatics from asylum by order of commissioners, 408; of lunatic from asylum by order of visitors, 316; duty of overseers and relieving officer, 316; by order of person who signed the order for his reception therein, 408; how, if such person is dead or incapable of acting, 409; notice to be given to commissioners, 416; form of notice, 462; form of register, 466; of lunatic from asylums, entries to be made with regard to, 415; of lunatic from licenced house after licence has expired, 475; of patients from licenced house or hospital, entry of, to be made, 212; notice to be given, 212, 213; by direction of person who signed order for admission, 225; how when he is incapable, 225; of pauper patients, 225, 321; how if dangerous or unfit to be at large, 226, 322; for the benefit of their health, 232; certificate to remain in force, 233; of patients from unlicenced houses on order of Lord Chancellor, 37, 238; of private patient by commissioners, 505; of lunatic pauper from workhouse to asylum, 310, 326, 498; generally by commissioners, 310, 329, 499; of pauper lunatic from asylum by relieving officer, how to be conducted, 550; vehicle to be kept at asylum, suggestion as to, 549; how expenses of are to be borne, 323, 441; of pauper lunatics to or from asylum by order of visitors, 403, 474; of pauper lunatic to asylum not an interruption of residence, 527; of chronic lunatics from asylums to workhouse, 485, 513, 514; of pauper to and from asylum, cost of, to be charged to common fund, 537; of paupers to settlement parish, or to Ireland or Scotland, in stead of to asylum, 312; of criminal lunatics and insane prisoners to asylum, 570–575; of insane prisoner from Queen's prison to Bethlehem Hospital, 611; of criminal lunatics from county asylums to criminal lunatic asylums, 603; of criminal lunatics, extension of previous Acts to criminal lunatic asylums, 606; on what certificates order may be made, 606; to asylum of criminal prisoner becoming insane, 575, 613; of insane prisoner sentenced to death, 573, 614; of insane naval prisoner, 617; from asylum of criminal prisoners on becoming sane, 614; of naval prisoner on becoming sane, 617; from India of insane persons charged with offences, 577, 597, 598; expenses

Removal—*continued.*
of, how to be defrayed, 577, 598; from India, of lunatics, 92, 600.
Removal of lunatic from asylum, service upon guardians of order of justices for payment of cost of, 442; of idiot pauper from idiot asylum or from workhouses of other unions, payment by guardians for, 523; to asylum of lunatics in the metropolis, suggested alteration in the mode of examination by police magistrates prior to the removal, 555, 556; of female lunatics from workhouse to asylum, without a companion of their own sex, 560; to asylum, of criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620, 621; execution of order of Secretary of State with regard to, 621.
Remuneration of visitors of houses licenced by justices, 194; fund out of which to be paid, 203; of visitors of unlicenced house, 274; of clerk to visitors, 195; of special visitor, 250; of person employed by commissioners to make special inquiries, 281; of medical practitioner accompanying borough justices in visitation of borough lunatics in county asylum, 341; of clerk of committee of visitors, 353; of medical men for visiting pauper lunatics in asylums, 386; for examining pauper lunatics, 397. See also Salaries. Fees.
Renewal of lease by committee of estate under order of Lord Chancellor, 139; of licences, application for, 54, 200; returns of patients to be furnished upon applying for, 200; penalty for obtaining without having made return, 200; prohibition of, 51, 55, 207, 208; copies of entries in visitors', patients', and medical visitation books, to be laid before justices on their considering renewal of licence, 54, 222; of contracts for reception of pauper lunatics, 475.
Rentcharge on land or buildings purchased for pauper lunatic asylum, 359.
Renting land by the year for purposes of pauper lunatic asylums, 359.
Repairs may be made by receiver, 263.
Repairs to asylum, power of committee to order, 362; expenses of, how to be borne, 363, 484.
Repayment of money borrowed on mortgage, 373; priority of payment, 374; within what time, 374; by raising new loan, 375.
Repeal of Acts, or parts of Acts—validity of proceedings, etc., not affected by, 98; not to affect appointments, agreements, prosecutions, etc. 336; 17 Geo. ii. c. 5, ss. 20, 21, 572; 14 Geo. iii. c. 49, 624; 19 Geo. iii. c. 15, 624; 22 Geo. iii. c. 83, 449; 26 Geo. iii. c. 91, 624; 39 & 40 Geo. iii. c. 94, s. 3, 568, 572; 48 Geo. iii. c. 96, 572; 51 Geo. iii. c. 79, 296, 572; 55 Geo. iii. c. 46, 296, 572; 56 Geo. iii. c. 117, 572; 59 Geo. iii. c. 127, 296, 572; 5 Geo. iv. c. 71, 296, 572; 6 Geo. iv. c. 53 (except as to Ireland), 98, 159; 9 Geo. iv. c. 40, 296, 572; 9 Geo. iv. c. 41, 624; 11 Geo. iv. and 1 Wm. iv. c. 65 (in part except as to Ireland), 98, 159; 2 & 3 Wm. iv. c. 107, 182, 624; 3 & 4 Wm. iv. c. 36, 98, 159; 3 & 4 Wm. iv. c. 64, 182, 624; 3 & 4 Wm. iv. c. 84 (except s. 2), 160 (as regards the secretary of lunatics), 98, 160;

Repeal of Acts or parts of Acts—*continued.*
4 & 5 Wm. iv. c. 76, s. 26, 539; 5 & 6 Wm. iv. c. 22, 182, 624; 1 & 2 Vict. c. 14, s. 1, 583; s. 2 (in part), 583; s. 3, 585; s. 6. 586; s. 7, 587; 1 & 2 Vict. c. 73, 182, 624; 3 & 4 Vict. c. 54, s. 1, 612; s. 2 (in part), 590; s. 3 (in part), 592; s. 5 (in part), 616; sec. 6 (in part), 593; s. 7 (in part), 594; s. 10, 595; 5 Vict. c. 4, 183, 624; 5 & 6 Vict. c. 29, s. 23, 602; 5 & 6 Vict. c. 57, s. 6, 449; 5 & 6 Vict. c. 84, 98, 160; 5 & 6 Vict. c. 87, 183, 624; 7 & 8 Vict. c. 101, s. 28, 449; 8 & 9 Vict. c. 100, s. 25, 264; ss. 45–49, 265; s. 89, 280; s. 111, 280; s. 116, 283; 8 & 9 Vict. c. 100, s. 35, 203; s. 97, 240; s. 98, 240; 8 & 9 Vict. c. 126, 296, 336; 9 & 10 Vict. c. 84, 296, 336; 10 & 11 Vict. c. 43, 296, 336; 12 & 13 Vict. c. 103, s. 5, 429; 15 & 16 Vict. c. 48, ss. 1, 2, and 3, 98, 160; 15 & 16 Vict. c. 87, ss. 14, 30, 31, 32, and 33, 98, 160; 16 & 17 Vict. c. 70, s. 23 (in part), 177; ss. 104 and 105, 176; ss. 22, 23, 16, 107; s. 24 (in part), 108; s. 25, 108; ss. 30, 31, 110; 16 & 17 Vict. c. 96, s. 6 (in part), 478; 16 & 17 Vict. c. 97, s. 132 (in part), 508; 18 & 19 Vict. c. 105, s. 14, 506; 23 & 24 Vict. c. 75, s. 8, 606, 619; 25 & 26 Vict. c. 86, s. 27, 177.

Repealed Acts, prosecution of offenders against, 247, 265, 336.

Report of Commissioners in lunacy—to Lord Chancellor as to alleged lunatic possessing property of limited value, 27, 171; Lord Chancellor may make general orders as to obtaining such reports, 172; to Lord Chancellor as to property of alleged lunatic not protected or duly applied, 118, 238; to Lord Chancellor on state and condition of lunatic asylums, etc., 233, 282, 625; to Local Government Board as to lunatics in workhouses, 280; to Secretary of State as to county or borough being without an asylum for pauper lunatics, 356; to Secretary of State as to plans and contracts for asylums, 370; of case of ill-treatment or unlawful confinement, Crown prosecution, 214; of discharge of single patient on, by Lord Chancellor, 275; to clerk of the peace as to house proposed to be licenced, 489; as to alterations of licenced house, 490; on criminal lunatic asylums to be made to Secretary of State, 576, 609; copy of, to be laid before Parliament, 609; on Broadmoor criminal lunatic asylum, 609.

Report of committee of borough justices on visitation of lunatics in county asylum, 341; powers of commissioners with regard to, 341.

Reports of council of supervision to Secretary of State on criminal lunatic asylum, 605.

Reports of Masters in lunacy, fee on report or certificate, 110; of decision pending inquiry, 131; to be divided into paragraphs, numbered, 131; to be filed with the registrar in lunacy, 131; objection to draft report may be brought, 131; petition against confirmation of, not to be presented, 132; confirmation of, when not objected to, 132; submitted for confirmation without petition, its contents and operation, 132; cases in which reports shall be brought before the Lord Chancellor for confirmation, 133; when lunacy is temporary, 143; to Lord Chancellor as to alleged lunatic possessing property of limited value, 27, 171; Lord Chan-

Reports of Masters in lunacy—*continued.*
cellor may make general orders as to obtaining such reports, 172; as to lunacy of person detained as a lunatic, 239; to be filed with secretary of lunatics, 239.
Reports of medical attendant to be entered in medical visitation book, 215; penalty for omission of entry, 216; untrue entry, a misdemeanor, 216.
Reports of members of private committee on single patients in unlicenced house, 237.
Reports of Poor Law Board cited, annual reports, 1st, 324; 3rd, 530; 6th, 543, 544, 545; 10th, 549; 14th, 331; 15th, 550.
Reports of Poor Law Commissioners cited, annual reports, 7th, 572; 8th, 518; 15th, 513; further report on amendment of poor law, 1839, 530.
Reports of Select Committee of House of Commons on lunatics, 324, 380, 519, 570.
Reports of special visitor on visitation of asylum, hospital, gaol, etc., 250
Reports (or certificates) of taxing masters, fee on, 110.
Reports of visiting commissioners on licenced houses and hospitals not within their immediate jurisdiction, 224.
Reports of visitors on single patient in unlicenced house, 274; annual report to commissioners with regard to, 274; commissioners may call for, at any time, 274.
Reports of Visitors of asylums—of ill-treatment or unlawful confinement, 214; prosecution thereon, 214; on asylums, to be made annually to justices, 383; copy to be sent to commissioners, 383.
Reports of Visitors of lunatics to be made to Lord Chancellor after each visit, 23, 136; to be submitted to him annually or oftener, 23, 136; special reports to be made, 23, 136; to be filed, 23, 137; to be kept secret, 23, 137; Lord Chancellor may appoint persons to inspect, 23, 137; when reports are to be destroyed, 23, 137; Lord Chancellor may direct visitors to make, in reference to alleged lunatics, 175; half-yearly reports to be made by visitors of lunatics of number of visits, 23, 175; of patients seen, 175; and of miles travelled, 175; copy of such reports to be laid before Parliament, 175.
Reports on visitation and examination of lunatics by order of Lord Chancellor or Secretary of State, 249.
Report to Secretary of State by quarter sessions of objections to plans, estimates, and contracts, 483.
Report Book, of inspections by visiting commissioners of houses and hospitals not within their immediate jurisdiction, 224.
Rescuing of criminal lunatic, felony, 607, 608.
Reserved beds in asylums, 376.
Residence on premises required from persons receiving licence for reception of lunatics, 46, 265; further provision as to, 47, 490; when person having charge of single patient wishes to change, 278.
Residence of lunatic in asylum to be deducted in computing period of residence to confer irremovability, 527.

Resident Superiotendent, in what cases to be a physician, surgeon, or apothecary, 46, 64, 209, 214.
Resignation of Masters in lunacy, 104; of member of committee of visitors, how vacancy caused by is to be supplied, 355; of member of council of supervision of criminal lunatic asylum, 604.
Restraint of patients, observations of commissioners on, 74; patients who have been under, to be entered in medical visitation book, 215, 216; instruments of, concealment from visitors and commissioners, 220; inquiry by commissioners and visitors as to patients under, 217, 218; proceedings in cases of illegal restraint, 87–92.
Restriction as to hire or lease of land or buildings, in what cases removed, 487.
Retaking lunatics after escape from asylum, 240, 411; not returning after absence on trial, 502; of criminal lunatics not returning after absence on trial or on breaking conditions of absence, 607, 619; after escape from asylum, 607; of criminal lunatic who breaks conditions of his discharge from asylum, 619.
Retiring annuities to medical visitors, 176; allowances to officers in lunacy, 177; pensions to commissioners, 186, 631.
Return (annual) of pauper lunatics, clerks to visitors to furnish additional information to guardians or overseers in order that it may be properly made, 553, 554.
Return of patients to asylum, notice of, to be given, 212.
Return to be made by visitors of sums received for travelling expenses, or upon any other account, 175; copy to be laid before Parliament, 175; to be made by commissioners to Lord Chancellor, 233, 282, 625; to be made on applying for renewal of licence, 200; of pauper lunatics, to be made yearly, form of, 455. See also Lists.
Revenue arising from estates of idiots and lunatics, 8.
Revocation of licence, who may recommend, 51, 55, 207; to be made by Lord Chancellor, how, 51, 55, 208; when to take effect, 51, 208; publication of, 207, 208; notice to be given of, 207, 208; of licence, lunatics detained after, a misdemeanor, 44, 56, 479; of licence of chaplain of asylum, 378.
Roehampton, jurisdiction of commissioners in lunacy as to, 45, 191.
Roman law as to unthrifts or prodigals, 5.
Rotherhithe (St. Mary), jurisdiction of commissioners in lunacy as to, 45, 191.
Royal prerogative as to custody of idiots and lunatics and their estates, 7–12, 95, 96.
Royal warrant as to criminal lunatics, 569, 575; form of, 569, 575.
Royal warrant, obligation of keeper of licenced house to receive insane prisoners committed under, 575.
Rule of Court, reference in, to commission of lunacy, to apply to issue and verdict in common law court, 168.
Rules, commissioners in lunacy empowered to make, 224; how to be made, 224; notice of holding of special meeting for making, 224; for management of asylum to be submitted to Secretary of State,

Rules—*continued.*
376; and when approved, printed, and observed, 376; alteration of, 376; for management and conduct of asylum, and as to officers, 376; as to exclusion of patients afflicted with diseases, 377; for government and management of criminal lunatic asylum, 605; to be certified by Secretary of State, 605; to be laid before Parliament, 605; for visitation of criminal lunatics by dissenting ministers, 605; to be approved by Secretary of State, 605; for Broadmoor criminal lunatic asylum, 605. See also Regulations.
St. Alban, liberty of, special provisions as to, 448.
St. Giles, Camberwell, jurisdiction of commissioners in lunacy as to, 44, 191.
St. Mary, Lambeth, 44, 191.
St. Mary Magdalen, Bermondsey, 44, 191.
St. Mary, Newington, 45, 191.
St. Mary, Rotherhithe, 45, 191.
St. Paul, Deptford, 45, 191.
Salary of the masters in lunacy, 104; of the registrar in lunacy, 104; of the officers, clerks, and messengers, 105; of visitors of lunatics, 17, 106, 176; of clerks to visitors, 176; of commissioners in lunacy, 185, 625; of their secretary, 189, 625; of their clerks, 189, 625; monies applicable in payment of, 202; of visitors of houses licenced by justices, 194; of their clerk, 195; monies applicable in payment of, 203; of clerk to committee of visitors, 353; of officers and servants in asylum, rules as to, 303, 376; to be fixed by committee, 379; of officers of criminal lunatic asylum to be fixed by Secretary of State, 604.
Salaries payable under the 16 and 17 Vict. c. 70, upon what fund now chargeable, 108.
Sale of lunatic's property, Lord Chancellor may order, for payment of debts, maintenance, costs, etc., 104; of land, Lord Chancellor may order, 145; of undesirable lease, 147; of property of limited value of alleged lunatic, power of Lord Chancellor to order, 27, 171; of lands or buildings acquired for asylums, 365; of property of lunatic applicable to his maintenance, 417, 430, 525; of criminal lunatic's property under order of justices, 573, 589, 616.
Sales of settled estates, powers of guardians of infants in respect of, 164; of committees of lunatics, 164; and of assignees of bankrupts or insolvents, 164.
Sanction of commissioners to amendment of order or medical certificate for reception of lunatic into licenced house, 272.
Scale of superannuation allowance to commissioners in lunacy, 631; to secretary to commissioners, 631.
Schedules to 8 and 9 Vict. c. 100, (A) form of licence, 254; (E) registry of admissions, 256; (G 1) registry of discharges and deaths, 258; (G 2) form of notice of discharge or death, 259; (I) form of summons, 259.
Schedules to 16 & 17 Vict. c. 70, to be deemed parts of Act, 101; (I.) Acts and parts of Acts repealed, 159, 160; (II.) oath of the masters in lunacy, 161; (III.) short form of affidavit, 161.
Schedules to 16 & 17 Vict. c. 96, (A) No. 1, order for the reception of a private patient, 286; (A) No. 2, form of medical certificate,

Schedules to 16 & 17 Vict. c. 96—*continued.*
287; (B) No. 1, order for the reception of a pauper patient, 288; (B) No. 2, form of medical certificate, 290; (C) notice of admission, 291; (D) form of medical visitation book, 292.
Schedules to 16 & 17 Vict. c. 97, (A) form of agreement for uniting to provide asylum, 451; (B) form of mortgage and charge upon rates, 453; (C) No. 1, names of pauper lunatics in asylum, 454; (C) No. 2, names of private lunatics in asylum, 455; (D) form of annual return, 455; (F) No. 1, order for reception of pauper lunatic, 457; (F) No. 2, order for reception of private patient, 459; (F) No. 3, form of medical certificate, 460; (F) No. 4, notice of admission, 461; (F) No. 5, form of notice of discharge, removal, or death, 462; (G) No. 1, registry of admissions, register of patients, 464, 465; (G) No. 2, register of discharges, removals, and deaths, 466; (G) No. 3, form of medical journal, 467.
Schedule to 17 & 18 Vict. c. 94, (B) salaries and payments to be provided by annual votes, 630.
Schedules to 25 & 26 Vict. c. 111, (A) form of licence, 509; (B) quarterly list of lunatic paupers, 510.
Schedule to 27 & 28 Vict. c. 29, (A) certificate of visiting justices, 616.
Scotland, as to application of Act to, 618.
Seal of Registrar to office copies of orders in lunacy, 178; forgery of seal of registrar, felony, 135; of commissioners in lunacy, 187; licences to be under, when granted by commissioners, 201, 625; licences granted by justices to be under, 201, 625; orders of justices and visitors need not be under, 478.
Searches, application by commissioners of money received for, 202, 625; by clerk to visitors, of returns of lunatics, fee payable on, 203, 230; application of, 230; searches by secretary to commissioners, 231; fees payable on, 231; application of, 231.
Seclusion of patients, observations of commissioners on, 75; patients who have been under to be entered in medical visitation book, 215; meaning of seclusion, 215.
Secretary to visitors of lunatics, 107; continuance in office, 107; vacancies to be filled up by Lord Chancellor, 107; salary of, 107; allowance of expenses, 108; abolition of office of, 16, 107, 180; compensation to holder of the office, 107, 180.
Secretary of lunatics, report of masters in lunacy to be filed with, 239; name changed to registrar, 104.
Secretary of commissioners in lunacy, R. W. S. Lutwidge appointed as, 188; his resignation, 188; removable by Lord Chancellor, 189; appointment of successors, 189; to be subject to commissioners, 189; his salary, 189, 625; retiring pension of, 189, 631; oath to be taken by, 190, 625; to summon special meetings of commissioners, 192; not to be interested in any licenced house, 45, 196; otherwise guilty of a misdemeanor, 197; to apply money received by commissioners for licences and searches, 202; charge for licences payable to, 201; to make out annual account of monies received and paid by him, 202, 625; deficiency of receipts over expenses, how to be provided for, 625, 630; to enter in a book reports of visiting commissioners to licenced houses and

Secretary of commissioners in lunacy—*continued.*
hospitals not within their immediate jurisdiction, 224; orders and rules as to duties of, 224, 625; to give commissioners notice of special meetings, 224; searches by, as to lunatics in asylum, etc., 231; particulars of person inquired for to be furnished by, 231; fee to be paid therefor to, 231; copy order and certificate and statement and notices as to patients in unlicenced houses to be sent to, 32, 36, 235, 236; to enter such copies in private register, 237; to keep private register in his own custody, 237; to enter reports of members of private committee therein, 37, 237; to pay expenses to witnesses, 242; payment to and application by, of penalties, 244, 625; recovery of penalties under repealed Acts by, 247; prosecution of offenders by, 246; payment of expenses of commissioners by, 248; when eligible to be appointed a commissioner, 285; may prosecute for offences, 444; may be a witness, 444.

Secretary of State, powers of commissioners or visitors to order discharge of lunatics, not to extend to persons confined under order or authority of, 229; in what cases he may order visitation and examination of lunatics, or of alleged lunatics, 250; may direct special visitation of any asylum or place where a lunatic or alleged lunatic is confined, 250, 576; may direct sum to be paid to person so employed, 250; regulations for government of registered hospital and licenced house to be approved by, 43, 281, 282; obstructing execution of orders of, penalty, 29, 283; discharge of criminal lunatics by, 285, 576, 619; his direction as to uniting borough with county for purpose of providing asylum, 344; his powers with respect to boroughs neglecting to provide asylum or to contract with county, 344; his consent to agreement for uniting being altered or repealed, 348; his consent to election of committee for more than one asylum, 352; power of, to require justices to provide asylum for county or borough, 355; to enlarge or provide new asylums, 356; report to, of quarter sessions disapproving of plans, etc., 483; course of proceeding in such case, 483; his decree to be final, 483; his consent to dissolution of unions for providing asylums for pauper lunatics, 364; his consent to sale or exchange of lands or buildings by committee of visitors, 365; his consent to release of committee from contract for purchase of lands, 366; power of to determine contract for reception of pauper lunatics into asylum of county or borough, 367; plans of asylums to be approved by, 370; notice to, by council of boroughs, as to executing powers of Act, 446; order of, as to annexation of places not in boroughs to counties, 447; general rules for management of asylums, to be submitted to, 376; may sanction other than the medical officer being appointed superintendent of asylum, 379; abstracts of accounts of asylums to be sent to, 381; consent of, to conveyance of land for burial ground, 477; sanction of, as to burial grounds, 486; appeals to, by guardians against order of commissioners for removal of lunatic from workhouse to asylum, 326, 498, 551; may order insane prisoner to be removed from Queen's Prison to Bethlehem Hospital, 611; on prisoner becoming of sound mind may order him to be redelivered to

Secretary of State—*continued.*
Queen's Prison, 611; may order insane convict to be removed to lunatic asylum from Milbank Prison, 596; order of, on convict becoming of sound mind, 596; may direct confinement of criminal lunatics, 603; may direct their removal from county lunatic asylum or other place of reception to criminal lunatic asylum, 603, 604; certificate to be transmitted on removal, 604; authority of, to continue in or direct removal of criminal lunatics to county asylum, 604; to appoint council of supervision for criminal asylum, 604; to remove council, 604; to supply vacancies, 604; to appoint and remove officers, 604; to fix salaries, 604; to make rules for government and management of asylum, 605; for duties and conduct of officers, 605; for care and treatment of lunatics, 605; to certify rules, 605; rules for visits of dissenting ministers to be approved by, 605; report to, by council of supervision on the management of criminal asylum, 605; order of, for removal or discharge of criminal lunatic on what certificates to be made, 606; may order discharge without certificate where term of imprisonment has expired, 606; may permit criminal lunatic to be absent on trial, or upon conditions, 606, 619; may authorise persons to retake lunatics who have escaped, 607; may direct commissioners in lunacy to visit criminal lunatic asylums, 608; annual report to, of commissioners in lunacy on criminal lunatic asylums, 609; on certificate of visiting justices and of physicians and surgeons to order criminal prisoners becoming insane to be removed to asylum, 613; when he has reason to believe that prisoner sentenced to death is insane, to direct inquiry, 613; may direct prisoner to be removed to asylum, 573, 614; form of warrant, 574; prisoners afterwards becoming sane, how to be dealt with, 614; form of order of, for removal of insane prisoner to county asylum or licenced house, 574; power of, to grant temporary leave of absence from asylum to criminal lunatic, 576; may order persons apparently insane, who endeavour to gain admittance to the King, to be kept in custody, 581, 582; may order examination of such persons, 581; warrant of, for retaking criminal lunatic who breaks conditions of his discharge from asylum, 619; as to execution of such warrant, 619; may direct lunatic whose term of imprisonment expires before evidence of his sanity is given, to be sent to asylum, 620, 621; execution of such order, 621; as to application of provisions in sec. 6 of the 30 & 31 Vict. c. 12, to criminal lunatics whose term of imprisonment expired before the passing of that Act, 622, 623.
Secreting lunatics, penalty, 443.
Security to be given by committee of estate, masters to approve of, 121; masters may authorise payment or transfer of money or stock as, 122; masters may deliver out, belonging to lunatic, without order, 122; to be given to masters for proceeding to trial of traverse, 155; for appearance on return to distress warrant, 243; to be given by persons contracting with committee of visitors, 357.
Seizure of property of lunatic applicable to his maintenance, 417, 430, 525; of criminal lunatic, 573, 590, 616.

Seuding notice of appeal against order adjudicating settlement of pauper lunatic, 435.
Separate committee to be elected for each asylum, 352.
Separation of borough from county having a lunatic asylum provided in common, 342.
Serjeaut-at law, qualification required as a master in lunacy, 17, 102. See also Barristers.
Servant who leaves her master's home in a parish from which she is irremovable, and is sent to asylum from another parish, on what parish should order be made, 422.
Servants ill-treating patients, guilty of misdemeanor, 213; penalty for ill-treating lunatic, 271, 443; conniving at escape of, 502; wilfully allowing lunatics to escape, penalty, 443; in asylums, regulations as to number and description of, 376; appointment of, 379; removal of, 303, 379; wages of, 379; superannuation of, 381, 487; in asylums, prosecution of, for offences against Act, 444; dying in asylum, burial ground for, 477; in criminal lunatic asylum, appointment and removal of, 604; may retake escaped lunatics, 607; punishment of, for permitting escape of lunatic, 607, 608; penalty for ill-treating lunatics, 608.
Service of order for payment by guardians of money under Lunacy Acts, 422.
Service of summons, 243.
Settlement of pauper lunatic, to be deemed to be in parish from which sent to asylum, 418; adjudication of, 332, 420; how if it cannot be ascertained, 332, 423, 506, 552; copy of order and grounds to be sent to parish affected, 432; appeal against, 419, 434; copy of depositions to be supplied by clerk to justices, 435; by birth, of unemancipated child of Irish parents, 423; adjudication of, in the case of insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 584; order for payment of expenses of examination, conveyance to asylum, and of maintenance, 584; how when settlement cannot be ascertained, 584; appeal against order, 585; order on parish of, for maintenance of criminal lunatic wife, sent to asylum, the husband being irremovable, 589; adjudication of, in the case of criminal lunatic, 572, 589, 592, 594, 616; how when settlement cannot be ascertained, 572, 590; appeal against order, 573, 592; of pauper lunatic in a parish in a Gilbert's Union, order for maintenance upon whom to be made, 420; of pauper lunatic, order adjudicating settlement, signature of appeal against, by guardians under local Act, 436; adjudication of, in the case of insane persons or dangerous idiots apprehended under circumstances denoting a purpose of committing an indictable offence, appeal against order, by whom should documents relating to appeal be sent, 585; of criminal lunatic committed from a borough but confined in county gaol under contract, and from thence sent to Broadmoor, whether justices of county are the proper persons to inquire into, 588; adjudication of, in the case of a criminal lunatic, after expiration of his sentence, 589.
Sewage, discharge of, from asylum, nuisance in connection with, duty of committee of visitors to prevent, 362.

Seymour, Lord, appointment of as commissioner in lunacy, 184.
Shaftesbury, Lord, evidence of, on detention of pauper lunatics in workhouses, 324. See also Ashley, Lord.
Share of company, belonging to lunatic, may be transferred, 153.
Shareholder in joint-stock company, how when company contracts with visitors one of whom is a shareholder, 370.
Sheriff, issue of precept for jury by masters in lunacy, 21, 114.
Signature of registrar, forgery of, felony, 135; of commissioners in lunacy to annual account, 202; of visitors to annual account, 203; of books, etc., by visiting commissioners and visitors at visits to asylums, etc., 221; of orders of commissioners and visitors for discharge of patients, 228; of visiting commissioners to medical visitation book in unlicenced house, 235; of visiting commissioners to medical journal in unlicenced house, 273.
Signing medical certificate contrary to Act, penalty, 273, 442; false certificate, a misdemeanor, 443; what medical practitioners shall not sign, 272, 494.
Single patients in unlicenced houses, 28–37; statutory enactments relating to, 31, 32; definition of, 30, 284; reception of, into unlicenced houses, 32, 234, 235; order and medical certificate, 32, 235, 270; copy thereof with statement to be transmitted by person taking charge of patient, 32, 235, 504; when to be visited by medical attendant, 33, 235, 273, 274; report to commissioners, 33, 274; medical visitation book to be kept, 33, 235; form of, 35, 504; entries therein by medical attendant, 33, 235; book to be produced to and signed by commissioners visiting, 235; notices on death, removal, escape, or recapture of, 34, 236; visits by friends, 36, 232; secretary of commissioners to enter copy order, certificates, etc., in private register of patients, 237; visitation by commissioners, 36, 237, 280; copy of report to be entered in private register, 237; copy to be laid before Lord Chancellor, 37, 237; Lord Chancellor may order removal of, 37, 238; detention after such order, a misdemeanor, 37, 238; under care of person having no profit, visitation and examination of, by order of Lord Chancellor or Secretary of State, 249; penalty for ill-treating, 36, 271; who prohibited from keeping, 272; visitation of, less frequently than once a fortnight, 273; visitation of, by visitors on request of commissioners, 37, 274; annual report to commissioners with regard to, 274; discharge of, 37, 275; how when dangerous, 275; by order of Lord Chancellor, 275; recovery of, what notice to be given, 276; removal of, to asylum or unlicenced house, 34, 277, 478; notice of discharge of, to be sent to commissioners, 277; change of residence of person having charge of, 34, 278; temporary removal of, for benefit of health, 34, 278; special visitation of, by order of commissioners, 281; removal of, with consent of commissioners, 410; correspondence of, 36, 502, 504; death of, to be reported to coroner, 34, 505. See also Unlicenced Houses.
Single patients in unlicenced houses, as to construction of sec. 90 of the 8 & 9 Vict. c. 100, with regard to charge of, 234.
Small properties may be exempted from payment of per centage and fees, 110.

Smith, Mr. Montague, opinion on the construction of the term single patient, 30.
Smith, R. V., appointment of as commissioner in lunacy, 184.
Solicitor-general, opinion of late, on the construction of the term single patient, 30.
Solicitor-general, consent of, to prosecution, 247.
Southend, jurisdiction of commissioners in lunacy as to, 45, 191.
Southey, H. H., appointment of as commissioner in lunacy, 184.
Southwark, jurisdiction of commissioners in lunacy as to, 44, 191.
Special cases, inquiry into, and report upon, by order of commissioners, 281.
Special commissioner, appointment of, by commissioners, 281, 324 his powers, 281, 324; remuneration and expenses of, to be paid, 281; lunacy commissioners may appoint, for the purpose of attending meetings of managers of Metropolitan Asylum District and taking part in the proceedings, 540.
Special meetings of commissioners, 192; how to be convened, 192; number of commissioners required to execute purposes of, 192; where to be held, 192; for making rules and orders, 224; notice of, to be given by secretary, 224.
Special Sessions, justices of boroughs to execute purposes of Act in, 253; when to be held, 253.
Special visitation by commissioners of houses licenced by justices, after which they may order discharge of patient detained without sufficient cause, 60, 61, 227; by visitors, 60, 228; time to elapse between each, 228; notice of, 229; duty of proprietor or superintendent in such case, 229.
Special visitor, appointment of, to visit lunatic under care of committee, 249; or of person deriving no profit therefrom, 249; of state or criminal lunatic, 249, 576; to make report, 250; remuneration, travelling and other expenses, fund out of which to be paid, 282; appointment of, to visit lunatics in asylums, gaols, etc., 250, 576; to make report, 250; travelling and other expenses, payment of, 250.
Special visits to lunatics in asylums, gaols, etc., 250; payment of expenses in such case, 250.
Staff of Broadmoor Criminal Lunatic Asylum, superannuation of, 605.
Stamp on licence, 50, 54, 201; transfer of licence not subject to, 205; on change of licenced house, 206; on form of mortgage, 453.
Stamps, per centage and fees to be collected by means of, 19.
State of asylum, annual report of committee as to, 383.
State lunatic, visitation and examination of, 249, 576.
Statement as to property and income of lunatic may be required by registrar in lunacy, 278.
Statement on applying for licences, 47, 53, 198, 206; to be transmitted to commissioners, 53, 489; if untrue, a misdemeanor, 47, 199; for renewal of licence, 47, 53, 200; on changing licenced house, 206; to be transmitted on admission of patients, 211; of cause of death, 213; of reasons of medical attendant against discharge of patient by commissioners or visitors, 228; of particulars as to persons confined in licenced house, etc., 230, 231.

Statement of facts upon which opinion of insanity is founded, 271, 402; as to death of patient in asylum, 276; as to property of lunatics, 279; as to admission of lunatic into licenced house, form of, 279; copy of, to be sent to commissioners, 412, 496.
Statement of grounds of adjudication of settlement to be sent to parish or county affected, 432; by whom to be signed, 432; of grounds of appeal to be sent to respondents, 436; amendment of, 437; how if frivolous or vexatious, 438.
Statement of grounds of order of justices for adjudication of settlement of insane prisoner, and for repayment of maintenance by guardians, need not accompany service of order, 595.
Statement as to pauper lunatics in asylums to be sent to guardians half-yearly at least, 319, 499, 551.
Statement with regard to death of patient in asylum, 413.
Statement with respect to single patients in unlicenced houses, to be forwarded to commissioners, 32, 235, 504; failure to transmit, a misdemeanor, 236, 504.
Statement to be filled up and transmitted to medical superintendent with criminal lunatic, 604; form of, 609.
Stipulations in agreements for uniting, 347; alteration or repeal of, 348. See also Conditions.
Stock, interpretation of, 100, 263; given by committee as security, transfer of by authority of masters, 122; belonging to lunatic, masters may authorise transfer, 123; of lunatic residing out of jurisdiction, masters may inquire into, 129; belonging to lunatic, may be transferred, 152; order for transfer of, who shall make, 153; all transfers and payments to be binding, 154; of lunatic not so found by inquisition, power to sell and apply proceeds, 172; power of receiver to receive dividends on, 262; belonging to pauper lunatic, how it may be made available for his maintenance, 417, 431.
Stockwell, jurisdiction of commissioners in lunacy as to, 45, 191.
Streatham, jurisdiction of commissioners in lunacy as to, 45, 191.
Striking lunatics in asylums, penalty, 443; criminal lunatic, penalty, 608.
Subscribers to hospitals may appoint committee to treat with county or borough for uniting therewith, 339; single borough or county may unite with, 470.
Substitute, appointment of, by visitors, as to, 18, 107.
Substitute of chaplain of asylum, his duties, 378.
Substitution of Paymaster-general for Accountant-general, 134; and for Accountant-general of Court of Chancery, 177.
Suitors' Fee Fund, transfer to, of balance of account of the board of visitors for the better care and treatment of lunatics, 17.
Suitors' Fee Fund account, transfer of to National Debt commissioners, 108.
Suits, limitation of, 246.
Summary conviction, persons imprisoned under, on becoming insane, how to be dealt with, 612–614.
Summons, directions of masters with regard to, 130; power of masters to summon witnesses, 174; for special meetings of commissioners in lunacy, 192; for meeting of visitors, 195; for special meetings

Summons—*continued.*
of commissioners in lunacy to make rules and orders, 224; by commissioners or visitors, how to be made out, 241; form of, 259; of offenders against Act, 243.
Superannuation allowances to officers in lunacy, 177; to commissioners in lunacy, 186, 631; to their secretary, 189, 631; to officers of asylums, 303, 381, 487; to matron, 381, 488; how payable, 381; limitation of amount of, 381; calculation of amount, 487; confirmation of by justices, 488.
Superannuation of staff of Broadmoor Criminal Lunatic Asylum, 605.
Superintendent of asylum, appointment of, 303, 379; proceedings against, for furnishing defective certificate of cause of death, 317; removal of, 379; to be resident in asylum, 379; salary of, 379; superannuation of, 381, 488; penalty for ill-treating lunatics, 443; penalty for allowing lunatics to escape, 443; selection by, of chronic lunatics to be sent to workhouses, 485, 525, 558; to give notice to relative of death of lunatic, 495; penalty for detaining letters of patients, 504; to transmit to guardians statements as to pauper lunatics in asylum, 499, 551.
Superintendent of criminal lunatic asylum, appointment, removal, salary, and duties of, 604; application to, for attendance of dissenting ministers, 605; certificate of, on which order for removal or discharge may be made, 606; may retake or authorise the retaking of escaped lunatic, 607; penalty on, for ill-treating lunatic, 608.
Superintendent of district school or district asylum, detention of lunatics by, on the ground of insanity, 521, 557.
Superintendent of hospital, who to be, 209; to apply for registration of hospital, 209; penalty if he do not, 209.
Superintendent of registered hospital to make entry on reception of patient, 210; penalty for default or false entry, 210; to send to commissioners notice of admission of patient, 211; omission to do so, a misdemeanor, 211; to send to commissioners notice of escape and return of patients, 211, 212; penalty for omission, 212; to make entry and give notice on death, removal, or discharge of patient, 212, 213; penalty for omission, 213; certified statement of death to be transmitted by, 213; penalty for neglect, 212; how punishable for ill-treating or neglecting patients, 213, 214; obligation of, on visits by visiting commissioners, 58; to show every part of premises and every patient to commissioners, 220; concealment or refusal a misdemeanor, 220; refusal to answer inquiries made by commissioners, a misdemeanor, 221; production of lists, books, etc., by, 56, 221; to transmit copies of all entries made in books by visiting commissioners to commissioners, 222; penalty for omission, 223; notice of special visits to be given to, 229; to transmit copy of notice, 229; penalty for refusing admission of friends of patients, 232; when to take patient to place for benefit of health, 232, 478; authority of, for taking and detaining patient, 240, 241; plea of justification to actions or indictment against, 241; to report death of patient to coroner, 276; and to relatives, 495; penalty for detaining letters of patients, 504.

Superintendent of licenced house, name of, to be stated in notice of, application for licence, 198; removal of, 199; notice of revocation or prohibition of renewal of licenee to be given to, 208, who to be, 214. See also Proprictor.

Supersedeas of inquisition, writ of, may be transmitted from and to Ireland and England, 117; reports of visitors of lunatics to be destroyed, 23, 137; power of Lord Chancellor when liberty to traverse has been applied for to supersede inquisition upon terms, 25, 157; conveyances and transfers made before and after issue of writ to be valid, 157; power of Lord Chancellor to order on terms and conditions, 25, 169; provisions of former act in cases where traverse has been applied for, to apply, 170; of inquisition taken in India, 600.

Supreme Court of Judicature, constitution of, 15; formation of, into two divisions, 15.

Surgeon, qualifications required as a commissioner in lunacy, 186; appointment as visitor of houses licenced by justices, 193; when not to sign certificates for admission of patient to licenced house or hospital, 196, 272; penalty, 197; for asylum, appointment of, 303, 379; to be registered under Medical Act, 379; resident superintendent of registered hospital, 209; of licenced house, 214; definition of, 273, 283, 450; when to be approved of by commissioners or justices, 490; certificate of, for admission of private patients into asylum, 267; of pauper lunatics, 269; how to be filled up, 547; to state facts on which opinion of insanity has been founded, 271; when not to receive boarder into unlicenced house, 272; penalty for signing certificate contrary to Act, 272; may accompany borough justices on visitation of borough lunatics in county asylum, 341; payment of his remuneration, 341; when appointed for that purpose to visit pauper lunaties in asylum, 385; remuneration of, for such visits, 386; for examining pauper lunatic, 397; when not to sign certificate for admission of lunatic into asylum, 402; signing certificate contrary to Act, penalty, 442; false certificate a misdemeanor, 443; may be called in to assist justices in examination of persons in custody or apprehended under circumstances denoting derangement of mind and a purpose of committing an indictable offence, 583; certificates of, on removal of insane prisoners from Queen's Prison to Bethlehem Hospital, 611; from Milbank Prison, 596; as to lunatic prisoners for debt, 611; as to criminal prisoner becoming insane, 613; as to sanity of criminal prisoners who were removed to asylum, 614; as to insanity of naval prisoner, 617; as to sanity of naval prisoner, 617; appointment of, by Secretary of State to inquire into insanity of prisoners sentenced to death, 613; certificate of, 614.

Surplus monies of sale of lunatic's property for payment of debts, etc., provision as to, 142; of mines newly opened, how to be disposed of, 149.

Surrender of lease by committee of estate under order of Lord Chancellor, 139, 147; committee may accept and grant new lease, 150; made under Act to be valid, 152.

Suspension of order for removal of pauper lunatic to asylum, 392, 396.

Sussex, county of, special provisions as to, 448.
Sustentation of lunatics, 10.
Systems of coercion, inquiries by commissioners and visitors as to, 220, 249.
Taxation of costs of affidavit, 120; of costs after death of lunatic, order for, 165; of costs on abandonment of order adjudicating settlement of pauper lunatic, 439.
Taxing Masters to deal at their discretion as to costs of documents of unnecessary length, 130; report or certificate of, fee on, 110.
Tempest, change of licenced house rendered unfit by, 205.
Temporary absence of patients on trial, 76, 315, 321, 405, 501, 552, 606; from asylum, on trial or otherwise, of criminal lunatic, 576.
Temporary licence, when to be granted, 55.
Temporary chairman of commissioners in lunacy, election of, 188.
Temporary removal of patients for the benefit of health, 76, 232, 478; certificate to remain in force in such event, 233; of single patient, 278.
Temporary substitutes for visitors in lunacy, appointment of, 18, 107.
Tenure of office of masters in lunacy, 17, 102; of officers, clerks, and messengers, 17, 105; of medical visitors, 17, 105; of legal visitors, 17, 105; of secretary to visitors, 107; of visitors of lunatics, 176, of registrar in lunacy, 177; of commissioners in lunacy, 185; of clerk to committee of visitors, 354; of chaplain, medical officer, clerk, treasurer, etc., of asylum, 379; of visiting physician or surgeon, 379; of superintendent of asylum, 379.
Terms of licence, penalty for infringing, 491.
Time, limitation of, for trial of traverse, 22, 155.
Time, limitation as to, of inquiry under commissions of lunacy, 12, 22, 115.
Time to elapse between special visits of commissioners or visitors, 228.
Time for repayment of loans, 374, 375.
Tooting, jurisdiction of commissioners in lunacy as to, 45, 191.
Town, when to be annexed to county for purposes of Act, 447.
Town, being a county in itself, and having no recorder, to be included in the expression county, 515; power of justices of, with regard to contracting for reception of their lunatics into other asylums, 516.
Town clerk, notice to, on appeal against order of adjudication of settlement of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 585.
Townley, case of, certified to be insane while under sentence of death, but afterwards reported to be of sound mind, 573.
Trade or business of lunatic not so found by inquisition, application of his property when of limited value for carrying on, 171; of person acquitted on ground of insanity, application of his property for carrying on, 173, 575.
Transfer of Government of India from East India Company to the Crown, 598.
Transfer, interpretation of, 101; of stock, who shall make order for, 153; costs of, may be paid out of lunatic's estate, 154; under Act to be valid and binding, 154, 174.

Transfer of jurisdiction of Sovereign in Council with regard to appeals from orders in lunacy of Lord Chancellor or other persons, to Court of Appeal, 16, 179; to Court of Appeal of like jurisdiction of Judicial Committee of the Privy Council, 179; to High Court of Justice or to Court of Appeal, of jurisdiction of Lords Justices of Appeal in Chancery with regard to lunatics, 180.

Transfer of licence on incapacity of person licenced, 51, 55, 205; consent of recorder not required, 205; on house being pulled down or destroyed, etc., 51, 205, 206; transfer not subject to any stamp or fee, 205; medical certificate not affected by, 233.

Transfer of licences, practice of commissioners in lunacy, 51.

Transfer of lunatic from licenced house after licence has expired, 475; of patients to new house, 55, 205, 206; to other licenced houses or hospitals, 76, 226; certificate to remain in force in such event, 233; of pauper patients to list of private patients, 495; and of private patients as pauper patients, 495; notice of, to be given to commissioners, 495; of private or single patients to other asylums, 34, 277, 410; of patients in county or borough asylums, 316, 409; of paupers in licenced houses and hospitals, 321.

Transfer of mortgages, 372.

Transmission of copies, etc., proof as to, 248; of documents to commissioners on admission of patient, 496.

Transportation, prisoners under sentence of, on becoming insane, 613; how to be dealt with, 613, 614.

Travelling of visitors, half-yearly return of number of miles travelled, 175.

Travelling expenses, allowance to visitors in lunacy for, 108; to masters in lunacy for, 108; of visitors, yearly return to be made to Lord Chancellor, 175; copy of return to be laid before Parliament, 175; of commissioners to be paid, 185; monies to be applied towards, 202; annual return of, to Lord Chancellor, 233, 282, 625; of special visitors, 250, 283.

Traverse, right to, 97; discharge of inquisition on, reports of visitors of lunatics to be destroyed, 23, 137; petition for, when to be presented, 24, 155; time for trial limited, 155; security to be given, 155; right of, barred if proceedings neglected, 155; Lord Chancellor may extend time for trial, 24, 155; may order new trial, 24, 156; no person to traverse oftener than once, 24, 156; Lord Chancellor and masters may, notwithstanding traverse, make orders for the custody of the person and management of estate, 25, 156; when application for traverse has been applied for, inquisition may be superseded upon terms, 25, 157; not to be granted upon trial in common law court, 25, 168; sections 148, 149, and 150 of 16 & 17 Vict. c. 70, relating to, not to apply in such a case, 169; section 151 of said Act to apply, 169; commission may be superseded on terms and conditions where application for traverse has not been applied for, 25, 169; costs of, Lord Chancellor may order payment, 25, 170.

Treason, person charged with, acquitted on the ground of insanity, to be kept in custody, 579.

Treasurer of asylum, payments to be made to, by treasurer of county or borough, for cost and expenses of asylum, 371; appointment

Treasurer of asylum—*continued.*
of, 303, 379; removal of, 379; salary of, 379; accounts to be kept by, 304, 382; audit of them, 304, 382; payments to, for maintenance of lunatics, 419.
Treasurer of borough defined, 450; to pay remuneration to medical practitioner accompanying borough justices on visitation of borough lunatics in county asylum, 341; notice to, of contribution of borough annexed to county towards expenses of asylum, 343; payments to be made by for expenses of asylum, 371.
Treasurer of county or borough, payment to, of balance in hands of clerk of the peace, 204; payment by, of balance to clerk of the peace, 204; money to be paid to, under agreement for uniting in respect of expenses already incurred, 349; how to be applied, 349; payment of money for cost and expenses of asylums, 371.
Treasurer of county defined, 450; when to pay expenses of burial, discharge, or removal of pauper lunatics from asylum, 441; orders of maintenance upon in respect of pauper lunatics in asylums, 538.
Treasurer of county, city, borough, or place, interpretation of, 595; order of maintenance on, when settlement cannot be ascertained, in the case of insane person or dangerous idiot apprehended under circumstances denoting a purpose of committing an indictable offence, 568, 584; order of maintenance on, in the case of criminal lunatic whose settlement cannot be ascertained, 572, 590.
Treasury, commissioners of, sanction of, to salary of registrar, 16, 105; to appointment and salaries of officers, clerks and messengers to masters and registrar, 16, 106; to salaries of visitors, 106; to salaries of clerks to visitors, 176; to superannuation allowances to officers in lunacy, 177; audit by, of annual account of secretary of commissioners in lunacy, 202, 625; may order disposal of balance in the hands of the secretary, 202; to direct application of money for conveyance and maintenance of criminal lunatics, 607; approval of, to salaries of officers of criminal lunatic asylum, 604; may direct fees to be carried to Consolidated Fund, and contingent expenses of commissioners in lunacy to be paid out of annual votes, 629, 630; sanction of, to fees and per centages fixed by Lord Chancellor, to be taken in the courts, and the per centages to be paid on lunatic's estate, 19.
Treatment of lunatics, observations on, 75; visitors to inquire as to, 175; description of, to be entered in case book, 216; before the commencement of the present century, 295; as a pauper lunatic, of criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620; applicability of 30 & 31 Vict. c. 12, s. 6, to criminal lunatics whose term of imprisonment expired before passing of that Act, 622, 623.
Treatment of lunatics in workhouses, inquiries by commissioners as to, 280, 324; entries to be made with regard to, 501, 552.
Trespass, actions of, for illegal confinement, 88–92.
Trial of traverse of inquisition, time for, limited, 24, 155; when barred, 155; Lord Chancellor may extend time for, 24, 155; new, on traverse, Lord Chancellor may order, 24, 156; of traverse, inves-

Trial of traverse—*continued.*
tigation to be confined to state of mind of alleged lunatic at the time of inquiry, 22, 167; evidence as to his state for more than two years previous not to be received unless judge otherwise direct, 22, 167; Lord Chancellor may direct issue to be tried in common law court, 21, 167; regulation of proceedings, 167; verdict to be of same effect as inquisition under commission of lunacy, 21, 168; when alleged lunatic is to be examined, 21, 168; examination to take place either in open court or in private, 21, 168; Lord Chancellor may order new trial, 24, 168; sections 148, 149 and 150 of 16 & 17 Vict. c. 70, relating to, not to apply to such a case, 169; sect. 151 of said Act to apply, 169.
Trial of appeal against order adjudicating settlement of pauper lunatic, 435.
Trial, discharge of lunatic, from asylum on, 76, 315, 405; allowances to, 405, 501; certificate as to, 405; from licenced houses, 321, 501, 552, 576; absence of criminal lunatics on, 606, 619; may be retaken in case of failure to return, 607, 619.
Trial of person charged with treason, murder or felony, and acquitted on the ground of insanity, 580; when person charged with any offence is brought before court to be discharged for want of prosecution and appears to be insane, 580; of person charged with misdemeanor and acquitted on ground of insanity, 591.
Trial by court martial of persons in navy, custody of, when found insane on, 617; directions of Admiralty as to custody of such persons, 617.
Trustee Act, 1850, inquiries and matters coming within, or any Act thereby repealed, connected with persons and estates of lunatics, formerly referred to masters in Chancery, now to be conducted by masters in lunacy, 17, 103; appointment of new trustees by committee of estate to have same effect as appointment under, 152; orders as to land or stock may be made by Lord Chancellor, as under, 152.
Trustees Relief Act, estate of lunatic, order in favour of guardians under, 526.
Trustees, powers vested in lunatics as, to be exercised by committee, 151; appointment of new, by committee, provision as to, 152.
Trustees having possession of property of lunatics, 417, 431, 526.
Trustees, number of, to whom land purchased for purposes of Act is to be conveyed, 361; appointment of new trustees, 361; in whom estate is to vest, 362; to convey land sold by committee of visitors, 366; for burial ground, 477.
Trustees, payment by, to guardians in re-imbursement of relief granted to pauper, of instalments of annuity due to pauper, 532; of benefit or friendly societies, payment by, to guardians of money due to pauper lunatic, 532, 533; as to refusal of trustees to make payment, 533.
Turner, T., appointment of, as commissioner in lunacy, 184.
Undertaking to pay cost of maintenance of pauper or other lunatics in asylum, when committee of visitors may require, 369.
Undertaking by relative to provide for maintenance of lunatic on removal from workhouse to asylum, licenced house, etc., 521, 557.

Unemancipated child of Irish parents, birth settlement, order of maintenance, 423.
Unemancipated son in asylum, the father afterwards breaking his residence, order of maintenance, 421.
University of London, indemnity of graduates, 469.
Union, defined, 448, 449; list of lunatics chargeable to, to be made out annually, 384.
Union of counties or boroughs for the purpose of providing pauper lunatic asylum, 338, 470; by agreement with subscribers to hospital, 339; form of agreement, 347, 451; what it shall specify, 347; how proportion of expenses shall be calculated, 347, 471; alteration of, 348, 471; election of visitors after agreement has been entered into and signed, 350; dissolution of unions with consent of Secretary of State, 299, 364; new asylums to be provided in such case, 472; agreements for, to be submitted to commissioners, 370.
Unions extending into several distinct jurisdictions, provision for the case of, 557.
Union workhouses. See Workhouses.
United Kingdom, removal to, of insane persons from India, 92, 576, 577, 597, 601.
Unlawful confinement of persons as insane, prosecution for, 214.
Unlicenced houses, lunatics boarded in, 29; placed under superintendence of commissioners in lunacy, 29; reception into, of lunatic so found by inquisition on order signed by committee, 30, 234, 493; fortnightly visitation by medical man in such cases dispensed with, 31, 32, 494; visitation by commissioners in lunacy in such cases discontinued, 31; reception of more than one lunatic prohibited, 44, 209; order and medical certificate on reception of patient in, 32, 234, 270; copy thereof with statement to be transmitted by person residing or taking charge of patient in, 33, 235, 504; medical attendant when to visit patient in, 33, 235, 273, 274; medical visitation book to be kept in, 33, 235; form of, 35, 504; entry therein by medical attendant, 33, 235; notice on death, removal, escape, or recapture, 34, 236; private register of patients in, secretary to enter copy order, certificates, etc., in, 36, 237, 280; inspection of, by members of private committee, 237, 280; or by order of the Lord Chancellor, 237; visitation of patients in, 36, 237, 280; inquiry and report, 238, 280; removal of patient from, by order of Lord Chancellor, 238; detention after such order, a misdemeanor, 238; penalty for ill-treating patient, 29, 271; who prohibited from keeping, 272; visitation of, by medical men, 273, 274; by visitors at request of commissioners, 274; lunatics boarded in, reception of such lunatics, as to construction of sec. 90 of the 8 and 9 Vict. c. 100, 234. See also Single Patients.
Unsound mind, facts upon which opinion of is founded, to be stated in medical certificate, 271, 402.
Unthrifts or prodigals, 5; Roman law as to, 5; management of their estates, 5; case of W. F. Windham, 6.
Vacancy in office of master in lunacy, Lord Chancellor to fill, 17, 102; in office of visitor of lunatics, how to be filled up, 17, 105; in office of secretary to visitors of lunatics, 107; in office of commissioner

Vacancy—*continued.*
in lunacy, how to be filled up, 185, 624; remaining commissioners may act, 185; in office of secretary to commissioners in lunacy, how to be filled up, 188; in number of visitors of houses licenced by justices, how to be supplied, 193; in committee of visitors, how to be supplied, 355; remaining members to act during, 355; in offices in asylums, how to be supplied, 379; in council of supervision of criminal lunatic asylum, 604.
Validity of pending proceedings, etc., not to be affected by repeal of Acts, 98; of deeds, etc., executed under Act, 152; of acts of justices, proof of not to be required with respect to mortgages, 375; of mortgages not to be questioned, 375.
Vehicle for removal of pauper patients from asylum, 549.
Venue in actions, 246.
Verdict of jury in common law court to have same force as an inquisition under commission of lunacy, 21, 168; reference in other Acts, etc., to commission of lunacy, to apply to, 168; examination of alleged lunatic before consultation of jury as to verdict, 168; in action, when to be found for defendant, 246.
Vesting of land purchased or taken in exchange by committee of visitors, in clerk of the peace for county, 517.
Vexatious statement of grounds of adjudication of settlement of pauper lunatic, or of appeal, 438.
Violence, acts of, to be entered in medical visitation book, 216.
Visitation of Chancery lunatics, 23, 31, 175; of asylums and gaols by commissioners, 248; inquiries to be made as to lunatics, 249; of borough lunatics maintained in county asylums, 341; of pauper lunatics maintained under contract in asylum of county or borough to which they do not belong, 368; of lunatics in asylums or elsewhere by order of commissioners in lunacy, 281; of lunatic asylums by not less than two visitors every two months at least, 300, 382; to enter their remarks in visitors' book, 300, 382; half-yearly list of lunatics in asylums to be laid before, 383; copy of annual list of lunatics chargeable to poor rates to be sent to, 385; of patients in asylums by dissenting ministers, 303, 378; of pauper lunatics in asylums, etc., by guardians or overseers, 300, 321, 386, 552; by commissioners, 301; quarterly, of pauper lunatics not in asylums by medical officer, 305, 324, 386–389, 543–549; means taken by commissioners for promoting due visitation, 548, 549; of criminal lunatic asylums by dissenting ministers, 605; by commissioners in lunacy, 576, 608; of licenced houses by visitors, 60; to be without notice, 195; how often visits are to be made, 219; their duties in regard to, 219; duties of superintendent, 220; inquiries to be made, 220; production of lists, books, etc., 221; copies of entries in books to be sent to commissioners and to clerk of visitors, 222; visits by night, 61, 224; special visits to discharge patient, 61, 228; of licenced houses by medical attendant, 63; houses licenced for less than 100 patients to be visited daily, 214; for less than 50 patients to be visited twice a week, 214; visitors or commissioners may direct visits to be made at other times, 215; houses licenced for less than eleven patients, commissioners or visitors may lessen number of visits, 215; of licenced houses by

Visitation—*continued.*
single commissioners or visitors, 497; number of visits, 497; of asylums, hospitals, or gaols, 497; of licenced houses and hospitals by commissioners, 56; to be made without previous notice, 217; visits how often to be made, 217; their duties in regard to, 217, 218; Lord Chancellor may limit number of visits, 218; duties of superintendent, 220; inquiries to be made, 220; production of lists, books, etc., 221; copies of entries in books to be sent to commissioners, 222; entry of minute in patients' book as to doubtful patients, 223; when not within immediate jurisdiction of commissioners, reports as to, 224; visits by night, 58, 61, 224; special visits to discharge patients, 58, 61, 227; objects and results, 62; of lunatics so found by inquisition, 23, 219; duties of visitors of lunatics, 23, 175; of lunatics living with their relatives, 29; Lord Chancellor or Home Secretary may order, 29, 249, 283; penalty for obstructing orders, 29, 283; fortnightly visits dispensed with, as respects persons in unlicenced houses who have been found lunatic by inquisition, 31, 235; of unlicenced houses by private committee of commissioners, 36, 237; of single patients in unlicenced houses, by medical attendant, 235, 273; of single patients less frequently than once a fortnight, 273; by visitors on request of commissioners, 37, 274; provision not to apply to persons found lunatic by inquisition, 494; of lunatics by order of Lord Chancellor or Secretary of State, in certain cases, 249, 302, 576; special visitations, 250, 576; of union workhouses by commissioners in lunacy, 280, 498, 551; power of commissioners to direct removal of lunatic to asylum, 498, 551; quarterly, of pauper lunatics in workhouses by medical officer, 305, 324, 388, 510, 545, 551; of pauper lunatics in asylums, by guardians, as to number of guardians who should go on such occasions, 301; by guardians, overseers, or any medical man appointed by guardians, as to consent of visiting justices, 386.
Visitation Book, medical. See Medical Visitation Book.
Visiting Commissioners, who to be, 217; their visits to licenced houses and hospitals, 56–62, 217; when to be made, 217; their powers and duties, 57, 60; inspection of premises by, 217; to see every patient, 217; to inquire whether any patient is under restraint and why, 217; to inspect orders and certificates for reception, 218; in houses licenced by justices to consider observations by the visitors thereof, 218; to enter minute in visitors' book, 218; on first visit, to examine licence, 52, 56. 218; to sign licence, if formal, otherwise to make entry of informality, 52, 218; power of Lord Chancellor to lessen number of visits by, 218; concealment of patients from, 220; refusal of proprietor to show premises to, 220; concealment from, of instruments of restraint, 220; to inquire as to the performance of Divine service and the effect thereof, 220; also as to amusement and occupation of patients, 220; also as to adoption of non-coercion system and classification of patients, 220; and also as to condition of pauper patients when first received and the dietary, 220; lists, books, orders, certificates, licence, etc., to be produced to, 56, 221; books to be signed by, 221; to enter result of inspections and inquiries in visitors' book, 222; to enter in patients' book observations as to patients, 222; copies of entries to be

Visiting Commissiouers—*continued.*
transmitted to commissioners, 222; uot required to make entries in medical visitation book, 222; to euter minute in patients' book with regard to doubtful patients, 223; reports of, on inspection of licenced houses or hospitals not within their immediate jurisdiction, 59, 60, 224; consent of, to discharge or removal of patients dangerous or unfit to be at large, 226, 322; to order discharge of persons improperly confined iu their immediate jurisdiction, 227; special visits by, to discharge patients in houses licenced by justices or in hospitals, 227; after two distinct visits may discharge patient, 227; orders for discharge to be signed by, 228; each special visit to be made by same, 228; not to order discharge without examiuing medical attendant, 228; to transmit protest of medical attendant, 228; interval between the special visits of, 228; what notice of second visit to be given by, 229; regulatiou of dietary of pauper patients by, 229, 321; production to, and signature by, of medical visitation book in uulicenced house, 33, 235; visitation of unlicenced house by, 36, 237; their visits to asylums and gaols, 248, 301; when to be made, 248, 301; what inquiries to be made by, 249; to sign medical journal ou visit to single patient in unlicenced house, 273; copies of entries of in books of asylum to be sent to commissioners, 413, 500; entries by visiting committee to be laid before, 325, 501, 552; certificates of medical officer of workhouse as to detention of pauper lunatics in, to be laid before, 562. See also Commissioners in Lunacy. Private Committee. Special Visitor.
Visiting committee of guardians, appointment and duties of, 500; entries to be made by, in a book with respect to lunatics in workhouse, 325, 501, 552.
Visiting Justices of prisous to inquire with medical aid into case of prisoner becoming insaue, 613; certificate of in such case, 513; certificate of, as to insanity of prisoner sentenced to death, 613; directors of convict prisons to be deemed visiting justices, 614, 615.
Visiting physician to asylum, appointment of, 303, 379.
Visiting surgeon to asylum, appointment of, 303, 379.
Visitors of asylums, election of, after agreement for unitiug has been entered into and signed, 350; anuual election of, 351; separate committee to be elected for each asylum, 352; when not, 352; their meetings, 352; to elect a chairman, 353; number of members to constitute a meeting, 353; how questions are to be decided thereat, 353; not to be interested in contracts, 369; or receive emolument for designs or plans, 370; how when a shareholder in joint stock company, 370; copy of half-yearly list of pauper patients to be laid before, 383; removal of pauper lunatics to or from asylum by order of, 403, 473; to indorse order, 405; empowered to order discharge of persons confined in asylum, 316, 405; or to be absent upon trial, 405; may make allowances to, 405; what notice they may give of their intention to discharge lunatic, 406, 407; may discharge pauper lunatic on undertaking that he will be no longer chargeable, 407; consent of, with regard to discharge of dangerous lunatic from asylum, 409; medical journal and case book to be laid before, 412; may sue aud be sued in name of their clerk, 443; empowered to

Visitors of Asylums—*continued.*
enter into agreement with cemetery company or burial board for burial of pauper lunatics, 476; duty of, to provide for burials, 318; orders of, need not be under seal, 478; may arrange for care of chronic lunatics in workhouses, 328, 485, 514, 553; consent of, to visitation of pauper lunatics in, by guardians, overseers, or medical officer, 386; of asylums (county), to make out accounts with reference to pauper lunatics sent from boroughs, 522, 523, 557. See also Committee of Visitors.
Visitors of houses licenced by justices appointed under repealed Acts to continue until when, 183; appointment of, by justices, 59, 193; oath to be taken by, 193; vacancy in number how to be supplied, 193; publication of list of, 194; list of, when to be sent to commissioners, 194; being medical men how to be remunerated, 194; consent of recorder to remuneration not necessary, 195; appointment of their clerk, 195; when and where to hold meetings, 60, 195; not to permit notice of intended visits, 195; being justices may administer oath to clerk, 195; approval of assistant clerk by one of, 196; not to be interested in any licenced house, 196; otherwise guilty of a misdemeanor, 196, 197; being medical men, not to sign certificates, 196; not to attend patients under confinement, unless desired, 197; penalty for so acting, 197; consent of, to alterations or additions to licenced house, 54, 199; consent of recorder to appointment of, in borough, 194, 201; when to allow transfer of patients to new house, 205; monies applicable in payment of remuneration, expenses, etc, 203, 204; to sign annual account, 203; Crown prosecutions on report of, 214; may direct licenced houses to be visited daily by medical attendant, 215; how if the house be licenced for less than eleven patients, 215; when to be visited by visitors, 219; their powers and duties, 59; to inspect every part of premises, 219; to see every patient, 219; to inquire if any patient is under restraint and why, 219; to inspect orders and certificates for reception of patients, 219; to enter minute in visitors' book, 219; concealment of patients from, 220; refusal of proprietor to show premises to, 220; concealment from of instruments of restraint, 220; to inquire as to the performance of Divine service and the effect thereof, 220; also as to amusement and occupation of patients, 220; also as to adoption of non-coercive system and classification of patients, 220; and also as to condition of pauper patients when first received, and the dietary, 220; lists, books, orders, certificates, etc., to be produced to, 221; books to be signed by, 221; to enter result of inspections and inquiries in visitors' book, 222; to enter in patients' book observations as to patients, 222; copies of entries to be transmitted to the commissioners and to clerk of the visitors, 222; not required to make entries in medical visitation book, 222; duty of, when patient's state of mind appears doubtful to visiting commissioners, 223; power to visit by night, 224; consent of, to discharge or removal of patients dangerous or unfit to be at large, 226, 322; discharge by, of patients confined without sufficient cause, 227, 322; order for discharge to be signed by, 228; to make special visits before ordering discharge, 228, 322; to examine medical at-

Visitors of houses licenced by justices—*continued.*
tendant, 228; to send protest of medical attendant to clerk, 228; to give notice of second visit, 229; regulation of dietary of pauper patients by, 229, 321; may order searches as to lunatics in licenced house, 230; may give an order for friends to visit patients, 232; consent of, to removal of patient temporarily for benefit of health, 232; power to summon witnesses, 241; may administer oath, 242; may direct payment of expenses to witnesses, 242; order by, for prosecutions, 247; payment of costs incurred by, or under order of, 248; may visit single patient in unlicenced house by order of commissioners, 37, 274; to inquire and report, 274; remuneration and expenses to be paid, 274; visitation by, of single patient in unlicenced house, 274; payment of their expenses, 274; notice to be given to, if patient in licenced house be not removed after recovery, 276; powers of, when applicable to licenced houses after licence has expired, 44, 475; may permit patients to be absent on trial, 501, 552; letters addressed to, by private patients, to be forwarded unopened, 503, 565; may visit licenced houses singly, 497; powers of, in such cases, 497; may examine witness on oath, although not summoned, 507.

Visitors of lunatics (Chancery), there shall be two medical visitors and one legal visitor, 17, 18, 105; to hold their offices during pleasure, 17, 18, 105; persons who held similar offices under former Act continued in office, 16, 105; vacancies to be filled up by Lord Chancellor, 17, 105; qualification for a medical visitor, 17, 105; qualification for a legal visitor, 17, 105; masters to be *ex officio* visitors, 18, 105; not to be interested in licenced house for reception of insane, 17, 106; if so interested his appointment to become null, and his salary to cease, 106; their salaries, 17, 106; visitors and masters may form themselves into a board, 18, 106; may report to Lord Chancellor, 18, 106; may appoint substitute during illness or absence, 18, 107; their secretary, 107; visitors to be paid travelling and other expenses, 17, 108; salaries to be paid out of Suitors' Fee Fund, 17, 108; to report to Lord Chancellor after each visit, 23, 136; reports to be submitted to him annually or oftener, 23, 136; may make special reports, 23, 136; required to do so when unable to discover residence of lunatic or otherwise prevented from seeing him, 23, 106; reports to be filed, 23, 137; to be kept secret, 23, 137; when to be destroyed, 23, 137; duty of, to visit lunatics so found by inquisition and to make such inquiries as to their care as Lord Chancellor may direct, 23, 175; to visit lunatics four times a year, 23, 175; lunatics in licenced houses, asylums, or registered hospitals need not be visited more than once a year, unless otherwise directed by Lord Chancellor, 23, 175; to visit alleged lunatics and make inquiries and reports, 175; to report every six months the number of visits, 23, 175; of patients seen, 175; and of miles travelled, 175; to make yearly return of sums received for travelling expenses, or upon any other account, 175; copy of such reports and return to be laid before Parliament, 175; (medical) power of Lord Chancellor to order retiring annuities to, 176; (medical) hereafter appointed, to hold office during good behaviour, 176; (legal) to hold office during

Visitors of lunatics (Chancery)—*continued.*
good behaviour, 176; may be removed by Lord Chancellor, 17, 176; salaries of, 17, 176; not to practise in their professions, 17, 176; clerks to, appointment and salaries, 176; secretary to, abolition of the office, 16, 107, 180; compensation to the holder, 107, 180.

Visitors' Book, entries to be made in, by visiting commissioners, 52, 218; by visitors, 219, 221, 222; copies of, to be sent to commissioners, 222; and to clerk to visitors, 222, 501; copy sent to clerk to be laid before justices, 223; penalty for omitting to transmit copies, 223; Queen's printers' copy of Acts to be bound up in, 222, 284; inspection of, under 14 & 15 Vict. c. 99, s. 6, 222; to be kept in asylum, 382; entries to be made in, by visitors, 382.

Visits, number of, made by visitors, half-yearly report to be made, 175; by night, 58, 60, 61, 224; to licenced houses by visitors, 195, 217; number of, by medical attendant, 214, 215; to patients by friends, order for, 63, 76, 232, 315, 321; made by commissioners, report of, to Lord Chancellor, 233, 625.

Votes annual, for payment of contingent expenses of commissioners in lunacy, 625, 630.

Votes of commissioners in lunacy, 188.

Wages of servants in asylums to be fixed by committee, 379.

Wales, Acts extend to, 15, 101, 254, 451, 586, 595, 616.

Walthamstow, jurisdiction of commissioners in lunacy as to, 45, 191.

Walworth, jurisdiction of commissioners in lunacy as to, 45, 191.

Wandering lunatics, provision for sending them to asylums, 81, 310, 393; order of Poor Law Commissioners relating to, 393; when name unknown how to be described in order, statement, and certificate, 458; treatment as, of a criminal lunatic whose term of imprisonment expires before evidence of his sanity is given, 620; application of sec. 6 of the 30 & 31 Vict. c. 12, to criminal lunatics whose term of imprisonment expired before the passing of that Act, 622, 623.

Wandsworth, jurisdiction of commissioners in lunacy as to, 45, 191.

Wards for lunatics in workhouse, 327.

Wardship of idiot, granted by King to a relative of the idiot, 11.

Warrant (Admiralty), for removal to asylum of insane naval prisoner, 617; from asylum on becoming of sound mind, 617.

Warrant (Justices), for apprehension of offenders, 243; of distress, 243, 244; committal, 244.

Warrant (Royal), appointment of criminal lunatic asylums by, 603; for confinement of lunatic prisoner, 569, 575; form, 569; obligation of keeper of licenced house to receive insane prisoner committed under, 575.

Warrant (Secretary of State's), for removal of insane prisoners from Queen's Prison to Bethlehem Hospital, 611; for removal of insane convicts to lunatic asylum from Millbank Prison, 596; for remand on convict becoming of sound mind, 596; for confinement in criminal lunatic asylum, 603; for removal to asylum of criminal prisoner becoming insane, 613; form, 574; for removal to asylum of insane prisoner sentenced to death, 614; for removal

Warrant (Secretary of State's)—*continued.*
or discharge from asylum of criminal prisoners becoming sane, 614; for permitting absence from asylum upon trial, of criminal lunatic, 619; for retaking criminal lunatic who breaks conditions of his discharge from asylum, 619; execution of warrant, 619.
Weekly sum to be fixed by committee for maintenance of pauper lunatics in asylums, 377, 484; alteration of, 484; increase of, 377.
Welsby, Mr., opinion of, as to voluntary boarders in hospitals, 43.
West Ham, jurisdiction of commissioners in lunacy as to, 45, 191.
Western Counties Idiot Asylum, certified under 31 & 32 Vict. c. 122, 523.
Westminster, city of, jurisdiction of commissioners in lunacy as to, 44, 191.
Widows, constructive, where husbands are in confinement, relief to, 525.
Wife, detention of, in asylum, plea, 241; of private patient, when she may order discharge of lunatic husband from licenced house, 225; when from asylum, 409; being a lunatic, order of maintenance, 422; living apart from her husband, order of maintenance, 422; being a lunatic, in asylum, order on husband for cost of her maintenance, 333, 529, 532; being a criminal lunatic sent to asylum, order of maintenance on settlement parish though husband was irremovable, 589; maintenance of in asylum at cost of parish is relief to her husband, 422; order upon, for maintenance of her husband, 530.
Wilful neglect of lunatic in unlicenced house, 29; of lunatic by his brother, prosecution, 86; of lunatic mother by son, prosecution, 89.
Wilfully neglecting lunatic in licenced house, 271; in asylum, 443.
Will, masters may open and deliver out, 129.
Wimbledon, jurisdiction of commissioners in lunacy as to, 45, 191.
Windham, W. F., case of, 6; payment of costs, 25.
Withdrawal of borough from arrangement with county for providing lunatic asylum in common, 342.
Witness, persons giving evidence by affidavit liable to oral cross-examination and re-examination, 120; bound to attend before masters on receiving notice and tender of expenses, 121; expenses attendant on cross-examination and re-examination, how to be paid, 121; admissibility of a lunatic as a, 214; power of masters to summon, 174; summons by masters in lunacy of, 240; evidence, how to be given by, 240; secretary of commissioners and clerk to committee of visitors may be, in prosecutions conducted by them, 444; power of commissioners and visitors to summon, 242; examination upon oath of, 242; not appearing, or refusing to give evidence, penalty on, 242; payment of expenses of, 242; examination on oath, although not summoned, 507.
Wives of Chelsea and Greenwich pensioners, payment of pensions, 531; where husbands are in confinement, relief to, 525.
Woolwich, jurisdiction of commissioners in lunacy as to, 45, 191.
Workhouses not included in the word house, as used in sect. 44 of 7 & 8 Vict. c. 100, 209; rateability of, 360; admission of wandering lunatics, 393; illegal detention in, action against relieving

Workhouses—*continued.*
officer, 91; detention in, of pauper lunatics, evidence of commissioners in lunacy and of Poor Law inspectors on, 324; visitation of, by commissioners in lunacy, 280, 323; of pauper lunatics in, by order of commissioners, 281, 324; chaplain of, included in term officiating clergyman of the parish, 284; removal of lunatics to, when discharged from asylum, 407; arrangements for care of chronic lunatics in, 328, 485, 514, 553; quarterly visitation and list of lunatics therein, 305, 324, 388, 510, 545, 551; lunatics in, who ought to be sent to asylum, duty of medical officer, 307, 325, 492, 561, 562; power of commissioners on visitation of, to direct removal therefrom of lunatic paupers, 310, 326, 498, 551; entries to be made by visiting committee with respect to lunatics in, 325, 501, 552; number of lunatics in, 519; detention on the ground of insanity, 519, 521, 557; removal to, not an interruption of residence, but time to be excluded from computation 527; detention of lunatics in, 550, 551; of dangerous lunatics in, 325, 492; detention of dangerous lunatics in, prohibited, 325, 518; lunatic wards, 327; what pauper lunatics may be detained in, 305; detention in, of harmless lunatics against their will, 326, 327; baths for insane inmates of, 327, 520, 560; regulations of lunacy commissioners as to, 560; chronic lunatics sent to, to be still regarded as patients in asylum, 328, 524, 558; provision for sending idiotic paupers of other unions to, 328, 538; removal of lunatics in, to asylum, licenced house, etc., undertaking by relative to provide for maintenance, 521, 557; asylum for insane provided by Metropolitan Asylums Board, to be deemed a workhouse within meaning of the Lunacy Acts, 540; female lunatics on removal from, to asylum, should be accompanied by a person of their own sex, 560.
Wounding lunatics in asylum, penalty, 443; criminal lunatics, penalty, 608.
Writs de idiota inquirendo, 13; of error, 14; de lunatico inquirendo, masters of lunacy to have powers of commissioners under, 17, 102; issue of commission in lunacy in the nature of, 19, 112; Lord Chancellor's power to issue reserved, 239; of habeas corpus, release of lunatic under, 267; of supersedeas, issue of, 157; may be transmitted to and from England and Ireland respectively, 117; plea to, 241.
Yards of asylums, enlargement of, 357; committee may order additions to, 362.

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